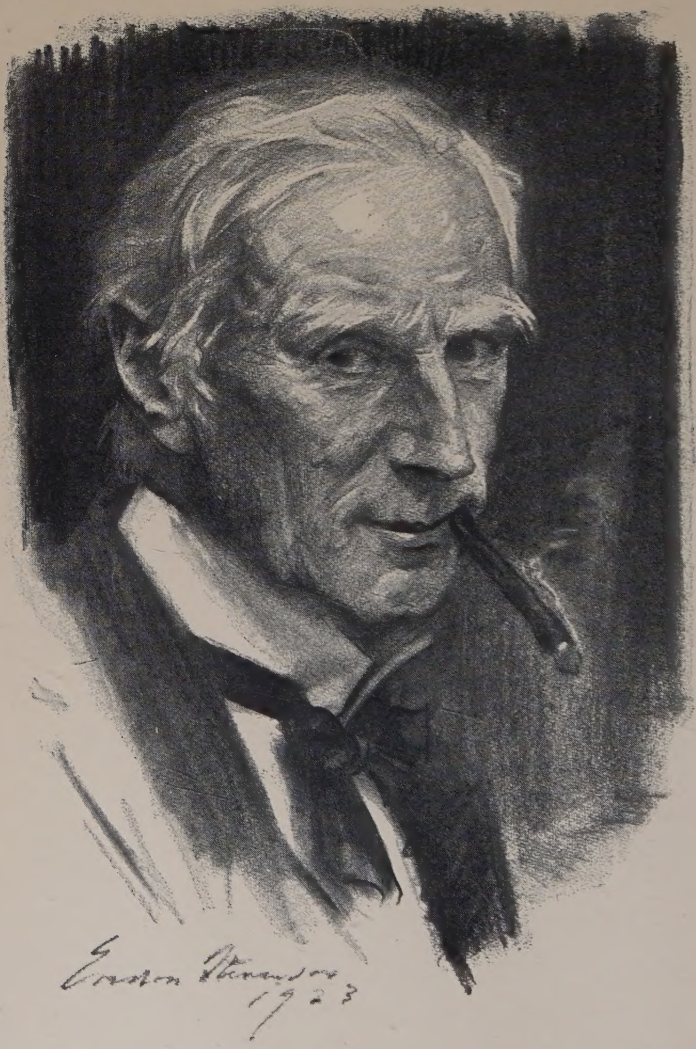
TUT, TUT! MR. TUTT



MR. TUTT

TUT, TUT! MR. TUTT

Being Adventures of the Celebrated Firm of
TUTT & TUTT
Attorneys and Counsellors at Law

BY

ARTHUR TRAIN

NEW YORK
CHARLES SCRIBNER'S SONS
1929

COPYRIGHT, 1923, BY
CHARLES SCRIBNER'S SONS

COPYRIGHT, 1920, 1921, 1922, 1923, BY THE CURTIS PUBLISHING COMPANY

Printed in the United States of America

CONTENTS

	PAGE
THE BLOODHOUND	1
TUT, TUT! MR. TUTT	39
THE LIBERTY OF THE MAIL	83
HOCUS-POCUS	119
SAVING HIS FACE	155
IN WITNESS WHEREOF	191
THE TWELVE LITTLE HUSBANDS	232
THE CLOAK OF ST. MARTIN	275

TUT, TUT! MR. TUTT

THE BLOODHOUND

I

"NEXT!" The dejected file of prisoners beneath the glaring windows stiffened and limped forward. There were twelve of them—the same number as the minor prophets, the apostles, the tribes of Israel and the officers of King Solomon—a bullet-headed negro in a red sweater, charged with vivisection during a crap game, bringing up the rear. The line humped along beside the iron grating like a caterpillar, those behind butting forward those in front, turned the corner by the jury box and disgorged two prisoners before the bar of judgment. It was the first Monday in January—pleading day.

"Next!" repeated Phelan, the court captain, standing inside the rail, to McNamara, his whipper-in. "Lively now!"

McNamara turned to the head of the line.

"You two there! Step up here!"

Mr. Dougherty, the tiny, bald-headed clerk with the big mustaches that made him look like an animated

mushroom, picked up the indictments on the top of the blue pile in front of him.

"Patrick Mooney and Daniel Mulligan," he intoned as if officiating at the high altar of the cathedral, "you are jointly indicted for the crime of burglary in the third degree, grand larceny in the first degree, assault in the first degree, receiving stolen goods and carrying concealed weapons. How say you? Do you plead guilty or not guilty?"

Neither of the two made reply.

"Have you counsel?" sang Dougherty.

"Got a lawyer?" interpreted Captain Phelan.

There was a slight bustle on one of the nearer benches as a heavily built man with sideburns came forward.

"I appear for both defendants, Your Honor," said he. "They plead not guilty. Will Your Honor set the case down for the twenty-first for trial?"

The judge nodded and made a note, and the stout lawyer turned away, about to resume his seat.

"Next!" shouted Phelan to the world at large. "Next!"

The taller of the two prisoners—a plug-ugly—wheeled from the rail and started on the return trip. The other did not stir. He was a much smaller man, hardly five feet six, and of a different make altogether. He might have been your plumber, or electrician, or the grocer's clerk who takes your order at the side door; and though his demeanor was more timid than any of these it was,

nevertheless, defiant—some spark of courage, or at least resolution, still surviving after his year in Sing Sing.

"Judge—Your Honor," he said huskily, twisting his cap in his hands—"this man don't represent me. I haven't got any lawyer."

Old Judge Watkins peered down from the dais at him over his reading glasses. He then looked after the retreating attorney.

"How's this, Mr. Hogan?" he asked. "I thought you said that you appeared for both defendants."

The attorney paused with a half smile.

"So I did, judge."

"The prisoner Mooney says you do not represent him."

"They're indicted together—for the same offense, committed at the same time. The defendant Mulligan's sister came to my office yesterday and retained me for both of 'em."

"Judge—Your Honor," repeated the man at the bar of justice stubbornly, "I don't know this lawyer and I don't know this man I'm indicted with. I never saw him before that night. I'm innocent, and I want a separate trial with my own lawyer."

Captain Phelan hoisted a blue shoulder and grinned at Mr. Dougherty. It was the old game—the ancient grandstand play—of seizing this opportunity to make a vigorous denial of guilt in the presence of the panel of jurors

newly assembled in court for a month's service, in the hope that by so doing one might avoid going on the stand later at one's trial, and so escape the disagreeable necessity of submitting to cross-examination upon one's record and earlier history.

"I only got out of prison Saturday, Your Honor," continued the prisoner Mooney, "after serving fourteen months—with an allowance off for good behavior. I'm in no hurry to get back either, believe me! Sunday night I was walking home, and this here defendant, Mulligan, came along with a bag and began talking to me. Just then a bull jumped out and drew his gun on us. He rapped for his side partner and they yanked us up to headquarters, and when they found out I'd been in stir they said I was due for another bit. Clubbed me, into the bargain! See that lump on my forehead? Then the first cop said he found a gun on me. It's a plant, judge, I didn't have one. What would I want with a gun, judge? What I want is a chance to earn an honest living!"

He made his plea doggedly, yet with obvious hopelessness, for he no longer had any faith in "the course of justice."

Judge Watkins, sent down from Utica by his friend the governor to hold a special criminal trial term and so relieve the congestion in the Tombs Prison, beckoned to Mr. Dougherty, who elevated himself upon his glossy little tiptoes and held a whispered colloquy with His

Honor across the edge of the dais. Behind the prisoner on the first row of benches a homely girl in a gray shawl, her broad honest face covered with a screen of freckles, leaned forward hungrily. She had waited for Mooney over a year; she would wait ten more if need be, or until they carried her out in a box feet first. She also had lost all faith in the supposed equality of the law. For Paddy had been railroaded because he had swatted Micky Morrison over in Fagan's saloon, Micky being heir apparent of the lower East Side, a friend of Bloodhound O'Brien, the assistant district attorney, and honorary colonel of the Pearl Button Kids; while Paddy Mooney was a stationary fireman in an office building, without political affiliations, and not even a member of the union. This he now perceived to have been a grievous lapse, due, however, only to the reason that they had sought to bully him into it, and he wouldn't be bullied.

Judge Watkins saw the tense look on the girl's face, and guessed its significance. For an upstate judge he knew a good deal about the Big Burg. There are some people who suppose that after Jerome cleaned up the Red Light District and jailed a few policemen New York became whiter than snow, and has stayed so ever since! Yet wasn't Boss Tweed nearly sent up after the greatest political house-cleaning ever staged by old Father Knickerbocker? Weren't the Tammany Tiger's ribs clearly visible for years? And would it not have died of star-

vation had it not been for the defeat of John Purroy Mitchel as recently as 1917? Has it changed its stripes? And after all, is a Republican cop—if there be such a thing—any different from a Tammany cop? Is not the nature of cops generic? Just as the nature of prosecutors is generic?

It is said somewhere by Frazer, in "The Golden Bough," that mankind as a whole resembles the ocean, and that civilization, like the wind of heaven, merely ruffles the surface, leaving the depths untouched. So it is with municipal reforms. You can have torchlight processions galore and political-fusion love feasts and spasms of civic virtue, but cops will remain cops, and crooks will remain crooks, and out of the enmity between their respective seeds will spring all the evils of any sort of warfare—brutality and malign trickery and *schrecklichkeit*. This hateful contest between human rats and human ferrets rarely fails to contaminate or at any rate to harden most of those who take part in it. For the rat is fighting for life and the ferret is fighting for his living.

The danger to the young lawyer who out of a desire for public service seeks an appointment as an assistant district attorney, is that in the passion of the chase the conviction and punishment of some—to him—obviously guilty criminal may seem more important at the moment than the strict preservation of his own integrity or the unwavering maintenance of the principles of justice.

Shall the murderer go free simply because some foolish law prohibits hearsay evidence or the proving of more than one offense at the same time? Should we not praise, rather than condemn, the young enthusiast who is willing to sacrifice his virtue, his ideals, his very soul in order that some ruffian may hang? Should we not pay tribute to one who is willing to be damned for the glory of God?

Judge Watkins looked searchingly around the court room until his eye came to rest in a far corner.

"I will assign Mr. Ephraim Tutt to the case," said he, and at the summons the old lawyer arose from his seat and, stovepipe hat in hand, approached the bar.

At that moment the door was pushed violently open and Billy the Bloodhound, surrounded by his minions, entered. Ancient enemy faced ancient enemy.

II

It must not be presumed from the foregoing philosophic disquisition that we intend to lay any floral offering upon the bier of William Francis O'Brien's moral reputation. Far from it! We desire to provide for him no apology, extenuation or excuse; and the reader may perhaps recall that he has hitherto at sundry times been described and figured in other pages as "the yellow dog of the district attorney's office," for that was exactly what he was—a legal bulldog or human bloodhound, as you

may prefer. One who viewed it as his duty to his God, his country, and himself to convict by any means at his command every hapless defendant brought to the bar of justice.

Through his pertinacity, his resourcefulness, and his lack of scruple he had achieved great notoriety as a prosecutor. Lawyers feared him, defendants shuddered at the mere thought of facing his merciless cross-examination; for he was without consideration to the former or sympathy for the latter. He had no bowels or mercies. To achieve his end he astutely made use of a veneer of apparent honesty, of naïve enthusiasm, that often made him seem to juries merely a blunt, well-meaning blunderer. Yet there was no guile of serpent he did not possess, no venom not in his teeth.

Billy the Bloodhound, as he was called, was a more prominent figure in the Criminal Courts Building than District Attorney John Henry Peckham himself, who was content to have it so, since he shared the widespread belief that there had to be a crook in every law office, whether public or private. In fact, he found O'Brien more than a mere convenience, particularly because he could always count upon him for a conviction in any difficult case. As he used to say to his confidential friends: "If the Bloodhound hasn't got the necessary evidence—he goes and gets it!"

Hence, because O'Brien was not only an asset but a valuable political go-between, the Honorable John

Henry Peckham smothered his personal dislike for the dog and encouraged it to lick his hand. He also was forced to put up with his noise, and his overbearing and swashbuckling ways. For outside the court-room—as well also, to be accurate, sometimes inside it—Billy the Bloodhound was a swaggering, blustering sort of legal bravo—wherever he went preceded, surrounded, and followed by a cohort of sycophants, clerks, process servers, and police officers on special detail, who ran his errands, carried his books, bags, and papers, bought his theatre tickets, did his telephoning, acclaimed his coming and did him lip service—much as we may imagine some Roman senator of the same type to have been accompanied by his bodyguard of lictors who shoved the crowd aside at his approach. All this to Billy the Bloodhound was as the breath of his life, and he played the part, bellowing down the corridors, shouting from the elevators, kicking his slaves in the shins and then handing them out cigars, whispering out of the corner of his mouth about "the big fellow" and "the one next," with so effective an air of mystery that he had everybody buffaloed; and the crowd all swore among themselves and to him that he was the greatest little man on earth.

He was thickset, bullet-headed, with closely cropped reddish hair and freckly sandy skin, and his short aquiline nose and square chin would have made the features of a cigar-store Indian—alas, poor redskin, he deserves

an apology!—seem filled with the milk of human kindness.

Everybody feared and kowtowed to him. People who wanted favors of Peckham went first to placate O'Brien, who was supposed to have the boss in his pocket; cops and detectives sought to have him handle their cases; judges were apt to try to conciliate him as a coming man politically, and as possibly the next district attorney. Whenever a "star case," a *cause célèbre*, or any matter attracting public attention came into the office, O'Brien sent to the chief clerk for the papers and grabbed it. He had even been known to send for the papers in a case already assigned to another assistant and grab that too. He gave out interviews to the papers, assumed the office of "acting district attorney" whenever Peckham absented himself, and likewise frequently when the latter was there, and constituted himself pretty much the whole show.

If one stood for him he wasn't so bad, and if he hadn't been a crook he might easily have been a power for good instead of a power for evil. It is not easy to overestimate that power, for he was the grand vizier of the most powerful public office-holder in the United States, not even excepting the President himself. He could make or break a cop or blast the reputation of any man in the community at will. This the Honorable William Francis O'Brien!

Alas "the law's delay, the insolence of office, and the

spurns that patient merit of the unworthy takes"! What price beside him, poor old Ephraim Tutt?

But wait! There is life in the old dog yet—old Tutt, we mean! So far Billy the Bloodhound has but opened the door and entered the court-room, and Mr. Tutt has but turned to gaze at him. Let us reserve our lamentations until we see what will happen when they meet. Will not the gods lend courage and strength to the kindly old lawyer, who never yet did aught but good, although mayhap he may have done it in queer ways? And who never retired wholly vanquished from the field of honorable battle?

So, heralds, your fanfares! And summon all to the lists to behold the contest between the Bloodhound and the Knight of the Stovepipe Hat. Blow, bugles, blow! Set the echoes of the forum ringing for the legal joust! Court officers, bawl your best, with "Oyez! Oyez!" and "Hear ye! Hear ye!" Pound the railings and shout the honest burghers out of their hats and into their seats, make them move up and on, close the windows, lock the door so that none may escape, and let all who have business in our Honorable Court now with due deference draw near, give your attention, and let Mr. Tutt be heard!

III

Billy the Bloodhound strutted into the inclosure in front of the dais, bowed to the judge and preened him-

self before the gaping crowd—the little czar, the Pooh-Bah, the high-cockalorum of the Sessions—as the old lawyer was in the act of consulting his new client. Something about Mr. Tutt inspired Paddy Mooney with instant confidence, and while the court waited he hastily explained to him the circumstances surrounding his arrest. He had no witnesses, he said; he was being framed and he wanted to be tried at once. O'Brien swaggered to the bar.

"Well," he inquired roughly, "how do you plead? What are you going to do? You can't talk there forever."

Mr. Tutt smiled with the old-time courtesy he invoked when in his most dangerous mood.

"I am sorry to have unduly delayed the proceedings, Mr. O'Brien. We plead not guilty, and we ask an immediate trial."

It was at this moment that the Devil, in the shape of Delaney the cop, leaned over the rail and plucked the Bloodhound's sleeve.

"S-st, Mr. O'Brien! Put the screws on him and he'll plead guilty. We've got him cold. Here's the gun I took off him—loaded."

He shoved the revolver into O'Brien's hand, and the latter, always willing to oblige, slipped it into his pocket.

"Has he got a record?" he asked sideways.

"Sure! Just out of stir. Caught him with a valise full

of stuff he took out of a cigar store. He's an old-timer—Gas House Gang. If he won't plead, stick him right on trial. It's a pipe! A conviction sure!"

The Bloodhound nodded.

"Leave him to me! Here, you!"—addressing Mooney and Mr. Tutt together and as one—"plead guilty and I'll give you attempted grand in the second."

Mr. Tutt gravely shook his head.

"No," he replied. "I cannot let an innocent man falsely admit under any conditions that he is guilty."

O'Brien's face hardened.

"Suit yourself!" he snapped back. "If he doesn't he'll get the limit."

"Not unless he's convicted!" murmured Mr. Tutt.

"Oh!" sneered his adversary. "You think you can get him off, do you? Don't fool yourself! It's a dead open-and-shut case. Will you or won't you? If you won't he'll be on his way up the river by two o'clock."

Mr. Tutt's blood boiled and tingled.

"Mister District Attorney," he said sternly, "may I ask if you have examined into the merits of this case?"

"I've seen the only witness there is!" retorted O'Brien. "This man is an ex-convict. His picture is in the gallery. So are his thumb tracks. He's guilty all right, all right! He's got no more chance than an icicle in Hades."

"Have you talked to him? Have you heard his

story? Have you questioned the officer who arrested him?" went on the old lawyer.

"I have not! And I don't intend to!" answered O'Brien shortly. "He can tell his story on the stand—and if there's anything to it the jury can acquit him."

"What chance has he got to have the jury believe him if you bring out the fact that he has been in prison?" asked Mr. Tutt. "It will hopelessly prejudice them against him."

"That's why he'd better plead guilty!" grinned the Bloodhound.

"And you call that justice!" cried Mr. Tutt, his lips quivering. "Well, put him on trial—and be damned to you!"

"I will!" laughed O'Brien. "I'll put him on trial in ten minutes—as soon as the pleas are over. And then"—he bent over past Mooney and leered into Mr. Tutt's face—"and then be damned to *you!*"

As the court officer marched Mooney back to the pen a hand pulled Mr. Tutt by the coat tails. He turned and looked into the homely face of the girl in the shawl.

"Oh, sir," she begged, "for God's sake don't let them frame him! That brute Delaney was a witness against him on his first trial. He's Morrison's man. They've made up their minds to railroad him. Oh, sir! Save him! He's a brave, good lad that never harmed anyone. I know you're a big lawyer and don't bother with the likes of us, but"—she lowered her voice to a

whisper—"I've saved ninety dollars, and it's yours if you get him off!"

Mr. Tutt patted her arm.

"All right! All right!" he said soothingly. "I'll do my best, but not for your money! What's your name, my girl?"

"Annie Murphy."

"Do you know the man Paddy worked for before he was sent up?"

"Sure!"

"Go bring him here."

The girl hurried away and Mr. Tutt walked back to his seat.

"If I ever get that fellow to rights," he muttered, eying O'Brien as he swaggered at the rail, "may God have mercy on his soul!"

IV

In the good old mediæval days our Teutonic relatives had a jovial habit of strapping any particularly unruly serf beneath the belly of a wild horse and then hunting him to death with dogs. The serf in this pleasant game had very little chance, but at any rate he had a fair start, and the horse did not have a ball and chain attached to his leg. But in the coming course, in which the dogs of law would run down Paddy Mooney if they could, he was handicapped in two ways: first, he had a ball and chain on his leg in the shape of his

prison record; and second, in addition to the hatred which O'Brien entertained for all defendants, and particularly for those who had served terms in prison, he was the object of the prosecutor's special malignity because he was to be defended by Mr. Tutt, who on more than one celebrated occasion had shown the braggart up for what he was. To his ancient grudge, fed fat by years of successful opposition upon the old lawyer's part, was now added the smart of present insult. His rage against Mooney for not being willing to plead guilty fanned his fury against Mr. Tutt, and his hatred of Mr. Tutt transformed his anger against Mooney to poisonous serpents. To be in any way foiled made him a madman.

"Come here!" he growled at Delaney as he dragged him into the corridor. "Give me the goods on this fellow! I'll teach that sanctimonious old he-devil a lesson he won't forget in a hurry!"

The heart of Delaney leaped within him. That was the bally boy! He would have another conviction to add to his scroll of honor, and maybe the D. A. would write the Commissioner a letter of commendation, praising his services in sending up Mooney for another bit! Anyhow, Micky Morrison wouldn't forget it! Promotion dazzled him! He could have kissed O'Brien or licked his boots—which latter alternative most of us would have preferred.

"Listen here!" he said, fawning upon the prosecutor.

"It's a cinch. I caught this guy and another gun—Mulligan—wit' a bag of goods. I gave ye the cannon I took off him already. Mulligan'll turn state's evidence for a suspended sentence. Everybody's here! You'll eat him alive!"

"All right! Tell Mulligan I'll use him; and bring him up into one of the jury rooms and go over his story with him. I don't want any slip-up now! I'm doing you a favor by trying this case myself."

"I know you are, Mr. O'Brien! I know you are!" declared Delaney in those tones of unctuous adoration that were as parmacety to the inward bruises of the Bloodhound's soul. "'Tis the next district attorney you're going to be!"

"Then get busy! Get busy!" ordered O'Brien, stalking back toward the court room.

The reader might well be pardoned were he incredulous of what O'Brien and Delaney purposed to do. Fortunately such prosecutors are rare; but once in a generation—perhaps even more often—they arise; and against their villainy judges and lawyers are generally powerless, for their assassinations are hidden beneath the cloak of law and the pretense of public service. Little did the judge upon the bench wot of the proposed tragedy; had he done so he would have arisen and rent his official garments. But Mr. Tutt knew, and his heart turned faint within his old frock coat. O Justice, what crimes are sometimes committed in thy name!

V

The last disconsolate in the file of prisoners had pleaded not guilty and clumped back to the prison pen; the judge had listened to the manifold ingenious excuses urged upon him by talesmen reluctant to serve; the crowd in the court room had thinned; it was twelve o'clock; the holocaust was about to begin.

The Bloodhound arose and strolled to the district attorney's table in front of the jury box.

"Have you any case to move, Mister District Attorney?" asked His Honor, and, at O'Brien's nod, added to the clerk, "Fill the box, Mr. Dougherty."

"Take your places, gentlemen," called the latter, drawing twelve names rapidly from the wheel. "People against Mooney! Patrick Mooney, you are indicted for burglary in the third degree, grand larceny in the first degree, assault in the first degree, receiving stolen goods and carrying concealed weapons. If you desire to challenge any talesman you may do so now!" One almost expected to hear him continue "Or forever after hold your peace!"

But Mr. Tutt did not wish to challenge anybody, and smiled so genially at the double row of miscellaneous citizens, and with such an air of gratification declared "The jury is more than satisfactory," that every man of them expanded his chest and lifted his chin a fraction of an inch, convinced that Mr. Tutt was a man of parts, and became his friend for life.

Then the Bloodhound summoned them to their duty of sending men to prison. The defendant, he told them, had been caught in possession of the proceeds of a burglary committed but a few moments before his arrest. He had a loaded pistol in his pocket, which he had sought to draw upon the officer, who luckily had reduced him to a timely submission. His fellow criminal would take the stand and testify against him. It was a cut-and-dried case, a routine affair; and they would have nothing to do but to convict. He called Delaney, whose immense blue bulk overflowed the witness chair; and the cop made good the prosecutor's opening in every particular. He described Mooney's attempted flight, his effort to pull his gun and how he had frustrated it by felling him with his night-stick. He then identified the gun which O'Brien produced from his pocket.

Cross-examine!

Mr. Tutt asked but two questions:

"Do you know Micky Morrison?"

"I do."

"Do you belong to the same club?"

"I do!" defiantly.

"That is all!" And the old lawyer waved him from the stand.

Then Mulligan was brought up from the pen and put in the chair, and swore that everything that Delaney had said was gospel. He admitted that he was a pro-

fessional burglar, but allowed that on occasions a burglar could tell the truth, and that this was one of them; and he supplemented the cop's story by describing in the most graphic detail how Mooney and he had planned and perpetrated the burglary of the cigar store; but, his imagination being limited and his general intelligence even more so, he made a sorry exhibition of himself under Mr. Tutt's good-natured yet searching cross-examination. Indeed, he soon became so involved in contradictions as to Mooney's part in the affair that no man in his senses would have convicted a dog of the larceny of a bone upon his testimony. One piece of evidence, however, remained unshaken—Delaney's testimony that he had taken a loaded pistol from Mooney's pocket; and Delaney had not been in any way discredited under cross-examination. Quickly O'Brien shifted his position. As a strategist he had no equal.

"If Your Honor please," he said, "I do not feel that the jury should be permitted to convict the defendant of burglary or larceny on this character of testimony. The co-defendant Mulligan is an ex-convict, besides being confessedly guilty in this case, and his statements should not be received without stronger corroboration. I shall therefore ask Your Honor to withdraw from the consideration of the jury all the counts in the indictment except that for carrying concealed weapons."

He spoke as if with an earnest hope for salvation—and the jury viewed him with approbation. The fox!

He knew that Mooney could not meet the charge without taking the stand and admitting that he had been in prison, although had all the counts been left in the indictment the jury might well have been led to render a general verdict of acquittal, owing to the obvious unreliability of Mulligan's testimony.

"The People rest," said O'Brien.

The jury turned to the defense.

"Take the stand, Mr. Mooney," directed Mr. Tutt, while the Bloodhound licked his lips.

Paddy Mooney felt his way round behind the jury box and to the witness chair. He knew that he was innocent, but he knew that he was going to be pilloried on cross-examination and utterly discredited. He was an ex-convict. That would be enough to send him up again. But unless he took the stand and denied that the weapon was his the jury would have no choice—would have to convict him. It was a slim chance but it was worth taking. No use giving up without a fight!

Doggedly under Mr. Tutt's lead he denied everything that had been testified to against him, including that he had, or ever had had, a revolver. Mulligan had joined him, he swore, unsolicited, and when Delaney had appeared he had made no attempt whatever to escape. Why should he have? He had done nothing.

"Your witness!" said Mr. Tutt with a bow toward the jury box.

The Bloodhound crept toward the witness chair with

the stealth of a panther about to spring. At three feet he sprang!

"Mister Mooney, have you ever been convicted of a crime?"

"Yes," answered the defendant in a husky voice.

"Of what crime?"

"Assault."

"Ah! And you say you are a peaceable sort of person?"

"Yes."

"When did you get out of jail?"

"Last week."

The jury looked at one another. The poison had begun to work. But the dose might be too small. O'Brien intended to take no chances. As he would have expressed it, he was going to "give him the gaff." He beckoned Delaney to the rail.

"What have you got on him?" he asked. "Give it to me quick."

"He's an old-timer," stammered the cop. "Gas House Gang. Cracked safes and done most everything."

O'Brien knew he was lying, but he had a right to take an officer's word for a thing like that.

"Go up to my office," he ordered Delaney, "and bring me down Jones' Professional Criminals of America."

The cop hesitated.

"He ain't in it!" he ventured.

"Did you hear what I said?" shouted O'Brien. "Go get it!"

While Delaney is waiting for the elevator to do his master's bidding let it be explained that when a criminal, or anybody else, for that matter, goes upon the witness stand to testify, he may be asked upon cross-examination by the opposing counsel any fact as to himself or his past which may tend to discredit him, for if he be a rascal and unworthy of credence the jury are entitled to know it so as to be guided by that knowledge in the performance of their holy office. Now there are only two limitations upon this sacred right of cross-examination as to credit—the discretion of the presiding judge and the fact that if the matter inquired about is not directly connected with the issue involved the lawyer asking the question is bound by the witness' answer and is not permitted to show in rebuttal that it is false.

Yet neither of these limitations amounts to anything, and the latter instead of being a handicap to a prosecutor really is an advantage; for often a lawyer asks a question from which the jury infers something which is not true and which the lawyer could not prove to be true if he were allowed to try to do so in rebuttal. For example: If a reputable prosecuting attorney should ask a colored defendant, charged with stealing A's chickens on Friday, if it were not a fact that he had stolen B's chickens on Saturday and the colored defendant denied

it, the jury would doubtless accept the interrogation of the prosecutor as based on fact and assume that the luckless negro had stolen chickens from both A and B. Yet if the prosecutor were at liberty to prove that the negro was lying when the latter denied that he had stolen B's poultry, he might find it exceedingly hard to do so. Thus the law's restriction, which is apparently an advantage to the witness, particularly if he be a defendant accused of a crime, in reality works against him; just as the right to take the stand in fact compels every defendant to do so or suffer the penalty of refusal in the form of the jury's natural assumption that he is afraid to do so because he is guilty. Of this great principle the Bloodhound now proposed to avail himself to the utter annihilation of Paddy Mooney and Mr. Tutt, both of whom he was resolved should plunge down into the abyss of discreditability.

For he knew that because he held a public office of large responsibility any question put by him to Mooney would be in the jury's eyes tantamount to an accusation; particularly after he had evinced such an apparent fair-mindedness by asking the judge to quash the burglary, receiving and larceny counts in the indictment.

The issue now hung in the balance. A police officer had sworn to finding a loaded pistol on the prisoner, and a self-confessed crook had corroborated him; the defendant had vehemently denied it, although the force of his denial had been somewhat tempered by his ad-

mission of having been previously convicted of assault. In view of the judge's admonition that the burden of proof would be on the prosecution to prove its case beyond a reasonable doubt, the jury might acquit. Something must be done. O'Brien did not hesitate. He would "smear" Mooney so that nobody would pay the slightest attention to his denials, however convincing under other circumstances they might have been. It would not be difficult. Any hint or suggestion that Mooney was a professional "gun"—the slightest innuendo to that effect, probably—would be enough; even if he didn't look it. For look it he certainly did not, as he sat motionless on the witness chair—more like a clay statue than a man, his chalky face set and his narrow shoulders foursquare to the world—an impotent yet defiant creature, like a wild animal driven into a hole or fettered to a stake. Only when his eyes over Mr. Tutt's shoulders met those of Annie Murphy did his stubborn expression soften. O'Brien caught the looks that passed between them and scowled. That sort of thing always had a bad effect on the jury. He must "can" it somehow. He strolled back to his place and faced Mooney again.

"You come from the Gas House district, don't you?" he asked.

"No," replied Mooney.

"Ever hear of the Gas House Gang?"

"Yes, but I'm not one of them."

"Oh, you're not, eh? I didn't ask you that. Why did you hurry so to slip that in?"

"I object!" interposed Mr. Tutt. "Such a suggestion is improper and prejudicial."

Judge Watkins, who despised technicalities, waved him aside.

"I will permit the question. The witness volunteered a statement. He may be examined upon it."

Mr. Tutt subsided.

"Because," retorted Mooney, "you were trying to make the jury think I was."

"Maybe you're right!" countered the Bloodhound with a grin at the jury box. "Now, how many times have you been convicted of crime in other States?"

"Never!" cried Mooney. "And you can't prove it either."

"Well, maybe I can't prove it," admitted O'Brien easily, "but," he added insinuatingly, "I can inquire how many times you have committed burglaries—say, in New Jersey?"

Mooney's jaws trembled and he grasped the arms of his chair so tight that his hands went white. He turned indignantly to the judge.

"Your Honor," he protested, "has this man got the right——"

"Answer the question!" admonished His Honor. "This is proper cross-examination."

"Well?" sneered O'Brien.

"I never committed any burglary!"

"No burglaries! What kind of crimes, then, have you committed?"

"I never committed any crimes!"

Mooney thrust forward in his seat toward his torturer and clinched his jaws. It was all nuts for O'Brien.

"Oh!" he laughed. "You didn't, eh? I thought you were just out of Sing Sing!"

"But I hadn't committed any crime."

"So you were innocent that time? Just as you claim to be now!"

"Delaney railroaded me for Mickey Morrison!"

The Bloodhound reddened with anger.

"Strike that out!" ordered Judge Watkins. "Don't volunteer. Answer only the questions put to you. Were you innocent that time?"

"Yes—I was!" declared Mooney with such obvious sincerity that O'Brien wished he had not asked the question. So far he had not scored heavily, although his adversary was getting groggy. At that instant Delaney re-entered the room and approached the rail with a large book in his hand.

"S-st!" he whispered to O'Brien, handing over the book. "Ast him if last December he didn't smash Sugar Grady's nose down on Hudson Street wit' a blackjack; an', say, ast him if he wasn't one o' the bunch 'at beat up Inspector Boyle with brass knuckles over behind the engine-house."

The Bloodhound's eyes gleamed. Real stuff! He put the questions to Mooney, receiving with an indulgent grimace the latter's emphatic denials, and the jury, who had seen his conference with the police officer, made sure that a desperate thug was seated before them, while Mr. Tutt, a satiric smile playing about his withered lips, vowed vengeance deep and dire upon the unscrupulous O'Brien.

But the Bloodhound, frenzied at the scent of human gore, was now resolved to rend Mooney limb from limb. With all the gleeful malice of a Spanish inquisitor about to tear out his victim's beating heart with a pair of incandescent pincers, this charming understudy of Satan sauntered nonchalantly up to the witness and, holding the Professional Criminals of America so that the jury could plainly read the title, opened the book and running his finger down a page as if to mark the place—and looking up from time to time as he apparently read what he there had found—put to the hapless being in the moral death chair before him, as if solemnly declaring the accompanying accusation to be true, the following question:

"Did you not, on September 6, 1917, in company with Red Burke, alias the Roach; Tony Savelli, otherwise known as Tony the Greaser; and Dynamite Tom Meeghan, crack the safe of the American Railway Express at Rahway, New Jersey, and get away with six thousand dollars?"

There was no doubt about O'Brien's having caught the jury now. Just as John Hancock signed his name to the Declaration of Independence so large that no one need use spectacles to read it, so Paddy Mooney screamed his outraged denial so loud that even the dead might well have heard him.

"It's a lie!" he yelled, jumping up and shaking his fist at O'Brien. "I never knew any such people. And I never was in Rahway."

"So you say!" the Bloodhound taunted him. "But don't you know that both the Roach and the Greaser testified at their trials that you were there?"

"Wait a moment!" interpolated Judge Watkins. "Do not answer until your counsel has time to object. Mr. Tutt, do you object to the question? If you do I will exclude it."

But Mr. Tutt gravely shook his head.

"I prefer to have him answer it," he said.

"I know nothing about it at all!" protested Mooney. Once more he turned to the bench. "Your Honor," he cried, "he's framin' me! I——"

Judge Watkins banged his gavel.

"You will have your chance to explain on the redirect," he remarked coldly, for he, too, was now convinced that the witness was a desperate criminal.

"That is all!" declared O'Brien, as with an air of triumph he threw the book ostentatiously on the table in front of the jury box. The defendant was cooked.

That question about Red Burke had done the trick, driven the last nail into the lid of his coffin. He sank gloatingly into his chair. He had 'em on the run. The jury could convict without leaving the box. There was nothing left for old Tutt to do but try to extract additional denials from his already discredited client.

But the old lawyer made no such move. Instead he remarked:

"Mr. Mooney, you were asked whether you had not been previously convicted of assault, and you replied in the affirmative. I now ask you whom you were charged with assaulting?"

"Micky Morrison."

"Who arrested you for the alleged offense?"

"Officer Delaney."

"You mean this same officer who has just sworn that he found a pistol in your pocket?"

"Yes, sir."

Mr. Tutt drew in his lips.

"That is all!" said he, without further attempt to rehabilitate his client. Then as Mooney left the stand Mr. Tutt addressed Judge Watkins:

"If Your Honor please, I had intended calling a character witness—a former employer—in behalf of the defendant, but what has transpired would seem to make any such testimony immaterial." He hesitated for an instant, and to O'Brien came the sudden thought that the old lawyer might be going to throw up the sponge

and plead his client guilty after all. But to his astonishment he heard Mr. Tutt say: "There is one thing, however, to which I invite the court's attention. The prosecutor has produced a loaded pistol here which he claims was found in my client's possession. It is the basis of the charge against him. Yet the district attorney for some reason best known to himself has not offered it in evidence. Unless this is done, in view of the fact that the pistol has been exhibited to the jury, I shall ask for a dismissal."

O'Brien rose languidly to his feet.

"The merest oversight, Your Honor. Here is the pistol. I offer it in evidence."

"I object," said Mr. Tutt—"unless it appears on the record from whose custody it is produced, how it got there, and that it is in the same condition as when received."

"Mr. Tutt is technically correct," nodded His Honor.

The Bloodhound's lips curled.

"I got it from Officer Delaney this morning, and have had it in my pocket all the time. It is exactly as I received it. Does that satisfy you?"

"Not unless you so testify upon the stand," answered the old lawyer, looking fixedly at O'Brien, who experienced a curiously sickening sensation.

"If Mr. Tutt insists you will have to be sworn," ruled His Honor. "But it is a rather unusual demand for any lawyer to make under the circumstances."

"This is a rather unusual case," retorted Mr. Tutt, unperturbed.

O'Brien shifted his feet uneasily. He did not like the idea of facing Mr. Tutt from the witness chair—not in the least! Still—there was no help for it. With the pistol in his hand he ascended the stand, took the oath and without sitting down repeated in a rather shaky voice what he had just said.

"Have you any cross-examination?" asked Judge Watkins.

"I have," replied Mr. Tutt amid a sudden silence. What could the old codger be up to?

"You are one of the public prosecutors of this county?" he asked quietly.

"I am," shot back the Bloodhound.

"And you are sworn to uphold the law?"

"Yes."

"To prosecute those of whose guilt you are satisfied through the introduction of legal evidence in a legal manner?"

"Of course." O'Brien's uneasiness was growing, But Mr. Tutt's next question momentarily allayed his anxiety while arousing his irritation.

"Where were you born?"

"New York City."

Judge Watkins frowned at the questioner. This procedure was not at all according to Hoyle.

"Gas House section?"

One of the jury sniggered. His Honor raised his hand in gentle admonition.

"Is this relevant, Mr. Tutt? I do not wish to criticise, but your question seems rather trivial."

Mr. Tutt bowed.

"This is cross-examination," he replied. "However, I will withdraw it. Do you know one Micky Morrison, Mr. O'Brien?"

"Yes," scowled the Bloodhound.

"How much did you pay him for your appointment as assistant district attorney?"

O'Brien turned first red, then white. Judge Watkins brought down his gavel.

"That will do!" he remarked. "The jury will disregard the question!"

"If Your Honor please," replied Mr. Tutt quietly, "I have as much right to attack this witness' credibility as he had to attack that of my client. I press the question in another form:

"Did you not pay six thousand dollars to Michael McGurk to be delivered to Micky Morrison in consideration for his securing your appointment as assistant district attorney?"

"I did not!" shouted O'Brien. "And you know it! Your Honor, are you going to permit me to be insulted in this way?"

But a puzzled if not actually bewildered look had settled upon the learned justice's countenance. To coin

a distinctly new phrase there was "a far-away look" in his gray eyes.

"Do you know Red Burke, alias the Roach; Tony Savelli, otherwise known as the Greaser; and Dynamite Tom Meeghan?"

"Mr. Tutt," expostulated Judge Watkins, "you may have a technical right to test the witness' credibility, but the matter is within my discretion and——"

"That is the precise question he asked my client," replied Mr. Tutt coolly. "What is sauce for the goose should be sauce for the gander."

"He may answer your question if you press it," acquiesced His Honor. "But there must be a limit to this sort of thing."

"Only a few more questions, Your Honor. Mr. O'Brien, have you ever been convicted of crime?"

"No!" valiantly answered the prosecutor, now gray as a ghost, for he saw his doom advancing upon him.

"Have you ever committed one?"

O'Brien choked.

"I won't force you to answer that!" threw in Mr. Tutt gallantly.

"Have you any basis for that question?" demanded His Honor sharply.

Mr. Tutt smiled first at the jury and then at Judge Watkins.

"Your Honor," he replied in his most engaging manner, "you and I perhaps belong to a generation which

has old-fashioned ideas of honor. I admit that I have had no basis for any of the questions which I have just asked the witness. Honor demands that I should do so; yet, in a sense, honor demanded that I should ask them, although I might later have to disown their sincerity. But, sir"—and his old voice rose high and vibrant—"but, sir, I do not abandon my attack upon this witness' credibility. I have but one more question to ask of him, and upon his answer I stake my client's liberty. Let this witness but answer any way he may see fit—yes or no, I care not which—give any reply at all that may be officially recorded here, and not hereafter be disputed or denied by him—and these twelve men may return a verdict against my client."

Something in the old lawyer's tone drew the jury as one man toward the front of the box. Judge Watkins was gazing intently at Mr. Tutt. The faces in the court-room surged up and down like ocean waves beneath O'Brien's smarting eyes. He was gaffed himself.

"Sir!" thundered Mr. Tutt, pointing an accusing finger at the miserable apology for a man now cowering upon the stand. "Sir! *When you took this book in your hand*"—he lifted Jones' Professional Criminals from where it lay upon the table—*and pretended to read from its pages, were you reading something that was printed there or not?* YES—OR NO?"

In the silence all could distinctly hear the ticking of the clock upon the rear wall of the court-room.

"Tick-tock! Tick-tock! Tick-tock! Yes—no! Yes—no! Yes—no!" it went.

O'Brien squirmed, looked down at the rocking floor, and turned faint.

"Tick-tock! Tick-tock!" alternated the clock.

"Yes—no! Yes—no!" answered O'Brien's pulse.

Everything was going black and white, and great pulpy gray spiders seemed grabbing at him from the circumambient air. If he put the thing through and answered "Yes"—insisted that he had been reading from the book, that old gray wolf down there would put the book in evidence and prove him a perjurer, send him up! A band of sweat oozed from beneath his red skull-cap of hair. Yet if he answered "No"—admitted that he had made the whole thing up—that there was not a word in the book about Mooney at all—it would be nearly as bad!

In his agony he almost clutched the flimsy legal straw of refusing to answer on the ground that his reply might tend to degrade or incriminate him! But this would leave him in an even worse position. No, he must answer!

"Tick—tock! Yes—no! Tick—tock! Yes—no! Which—what!"

He moistened his parched lips and swallowed twice. He coughed—for time; and fumbled for his handkerchief. After all, he had done nothing that was not strictly legal. He had not charged that Mooney was a profes-

sional crook; he had only asked him the question. That didn't commit him to anything! You could ask what you chose and you were bound by the witness' answer. A gleam like sunrise flashed across his seething brain. Ah, that would save him, perhaps! Old Tutt would be bound by his answer. And then he saw himself tricked again! Yes, Tutt might be bound in the case at bar—although his muddy mind wasn't quite sure whether he would be or not—but he himself would be forever bound by the written record. He could never get rid of the millstone that his yes or no—no matter which he uttered—would hang about his neck! Old Tutt, like the Old Man of the Sea, would forever be upon his back!

"No," he muttered at last in a woolly voice, so low and thick as to be hardly audible. "I was not—reading from the book."

He bowed his head as if awaiting the headsman's stroke. A hiss—a score of hisses—writhed through the air toward him from the benches. Captain Phelan made no attempt to stop them.

"You mean——" began Judge Watkins incredulously. Then with a look of disgust he turned his back upon O'Brien.

"Ye snake!" This time the tense sibilant was that of a woman.

Mr. Tutt gazed at the jury. The Lord had delivered his enemy into his hands.

"Now, gentlemen," he said with a deprecating smile, "you may convict my client if you will."

There was a moment's puzzled silence, broken by the foreman.

"The hell we will!" he suddenly exploded. "The fellow we want to convict is O'Brien!"

And in the flurry of involuntary applause which followed, the ancient Dougherty was heard to murmur:

"Hearken unto your verdict as it stands recorded. You say the defendant is not guilty—and so say ye all!"

TUT, TUT! MR. TUTT

Agree with thine adversary quickly, whiles thou art in the way with him; lest at any time the adversary deliver thee to the judge, and the judge deliver thee to the officer, and thou be cast into prison. Verily I say unto thee, Thou shalt by no means come out thence, till thou hast paid the uttermost farthing

—*Matthew* 5 : 25, 26.

I

THERE are some people who simply can't learn anything by experience. I am thinking particularly of Mrs. Edna [Pierpont] Pumpelly, *née* Haskins, wife of Vice-President Pumpelly of the Cuban Crucible Steel Company, formerly of Athens, Ohio, and now of East Seventy-third Street, New York, New York. One would have thought that after her celebrated run-in with her next-door neighbor, Mrs. Rutherford Wells, in which the latter simply put it all over her, she would have acquired some sense. But she didn't seem to. When Lackawanna and Bethlehem began to dally with "Cruce," as they call it on the big board, and it jumped to 791, the money went to her head and stayed there, filling that receptacle so completely that there wasn't room in it for anything else. In a word, she carried her nose in the air. Blood will tell; Edna had too many red corpuscles to live in New York.

You remember, perhaps, how Mrs. Rutherford Wells

—*the* Mrs. Wells—having snubbed Mrs. Pumpelly in a social way, had unintentionally blocked the street with her motor; and how Edna had taken that opportunity to get even by having her summoned to the police court for violating Article II, Section 2, of the traffic regulations. How, further—the firm of Tutt & Tutt having been retained by Mrs. Wells to defend her person and protect her rights in said matter—Mr. Ephraim Tutt had demonstrated most effectively that Edna was in no position to complain about other folks, by proceeding to plaster her all over with summonses herself for a whole galaxy of criminal acts, from illegally keeping Pomeranians and cockatoos down to and including having her garbage pail filled in an improper manner. Thirteen separate and distinct crimes did he pin on her, thus establishing successfully and indisputably that most perfect of all defenses known to the female of the species —"You're another." Edna threw up the sponge, called it off, withdrew her summons and swore that should she ever get into any such mess again she would herself retain Mr. Tutt.* But Mrs. Rutherford Wells continued to ignore her. Somehow Edna's money did not seem to take her so far, at that. But as it went to her head, the iron entered her soul. She became, in a word, meaner than ever.

That was the difference between her and Pierpont—if that was in fact his real name, as some were unkind

* See "By Advice of Counsel," p. 197.

enough to hint had not formerly been the case, at least not out in Athens. "Pellatiah," they said, is what his mother had told the minister to dub him. Down in Wall Street "P. P." had the reputation of being a good old scout. It was Edna who put on all the dog—threw the Pomeranian, so to speak. She'd nothing else to do, poor thing. But P. P. had to work just as hard in New York as he had in Athens. He kept just as long hours, slept a good deal less and didn't begin to eat near so hearty as out to home, where the hired girl had used to plunk the vittles right down on the table and they had all helped themselves. No, sir! Somehow it didn't seem the same, even if they did have a French chef—caneton au Chambertin, risotto de volaille à l'orientale, cœur d'artichaut aux pointes d'asperges, carré d'agneau, pommes Sarladaises. Nothin' to it! Give him a couple of spareribs with plenty of brown juice and a stack of spuds, and just watch him!

A regular fellow, Pierpont, or Pellatiah, or P. P., or whatever you may choose to call him; and whenever he went back to Athens all the boys turned out in full regalia and gave him a big night, for he was Past Grand Patriarch of the local lodge of the Brotherhood of Abyssinian Mysteries and of that elevation known as a Sacred Camel of King Menelik. He claimed he liked a place where you could unbutton your vest and enjoy diaphragmatic comfort. Vests annoyed him anyway. Home, he got 'em only because they came with the suit. Here, the

celebrated Mr. Jacob Erdman, Jr., son of the even more illustrious Mr. Jacob Erdman, of Erdman, Erdman & Erdman, Artists in Clothes for Men, made him order them. He now had twenty-nine, each considerably too tight and getting tighter day by day—the caneton au Chambertin maybe, or possibly the volaille à l'orientale. He looked so sloppy, Edna said, that he ought to be ashamed of himself, when he had a vallay an' everything. P. P. inevitably retorted that he hadn't asked for a vallay, didn't want any vallay, and would be eternally condemned if he'd have any such jackanapes capering around him when he was bare-naked. All the same, she got one for him—to press the twenty-nine waistcoats and make sure he was properly shaved.

The vallay's name was Beaton. He was young, English, respectful, came from Wapping-on-Valley in Devon, had volunteered with the First Hundred Thousand, been gassed at Ypres and had gone into valetry because he wasn't fit for anything else. P. P., having given him the once-over, strove vainly to get used to Beaton's "Yes, sir; thank you, sir," and "Very good, sir," and "Your bawth is ready, sir," found that it was no use, decided the boy was all right—"*quite* all right," he almost said—and proceeded to take him into his confidence.

"Look here, Beaton," he had declared from the folds of the Turkish towel in which he was draped, much as Jove might have spoken from the clouds of Olympus,

"you and I have got to understand each other. That mayn't be easy, considering our lingo is so different. I never went to school, an' you *did*. Still, I guess you can get the hang of what I have to say."

"I'll try to, sir," replied the bewildered Beaton. "Thank you, sir."

"Well, in the first place, for God's sake stop saying 'Thank you, sir,' every time I look at you. My face ain't any Christmas present. And cut out about ninety-seven out of every hundred 'sirs.' I ain't used to it, an' it gives me an inferiority complex. You can Mr. Pumpelly me as much as you like, only I ain't stuck on that, either. Plain 'yes' and 'no' is good enough for me, see? Plain speech for plain people.

"Second, I don't need any man to help me put my clothes on, and I don't want one hangin' round me. Looks like, however, I've got no choice in the matter. The missus has hired a housekeeper and you come with the rest of the outfit. I don't mind payin' you—not at all. But I don't want you to bother me any more than necessary. I can shave, clean my teeth, pare my fingernails, gargle my throat and put on my socks without assistance. I can even, under favorable circumstances, draw my own bath and brush my own hair. The way you hold my pants for me to jump into makes me nervous. I'm not trained to it. I like old soft things that fit into me; ones I know the holes and creases in. I hate vests—waistcoats, I s'pose you call 'em. I like to

be comfortable. I can't work if I ain't. Get me? Money in my pocket to be in the old duds!

"Now then, the missus insists on my havin' you, and I like you personally all right. You're a well-meaning young feller in spite of your frozen face. But you'll get thawed out over here soon enough. Let's come to an agreement. You can go through all the motions, dancing around outside my door and all that, but you leave me alone, see? Let me paddle my own canoe. You can lay out all the underclothes you want, by gosh, so long's I don't have to wear 'em! You can press pants ten hours a day, so be I don't have to put 'em on. The missus wants me to be dolled up like a swell, with a fresh suit every morning, a chrysanthemum in my buttonhole, a stovepipe, yellow gloves, and a gold-headed cane. Can you see me? I s'pose I've gotta have the clothes—yes. But so long as she can come up here and look in my closet and see fifty suits hanging there and a hundred pairs of boots in a line on the floor, look in my bureau and see a big pile of merino drawers and undershirts, a thousand pairs of silk socks, five thousand ties and a million handkerchiefs, she'll be satisfied. You can lead a horse to water, but you can't make him drink. I may have to own the clothes, but I don't have to wear 'em. Now I'll buy the clothes, you make a noise like a vallay—the louder the better—but it stops right there. I'll *own* the clothes, but you'll *wear* 'em. Understand me?"

"Yes, sir; thank you, sir!" answered the valet, standing at attention.

"What did I tell you?" roared P. P.

"Yes, Mr. Pum—pum—pelly." replied Beaton quickly.

"That's better!" nodded his employer. "Now no more of that bawth-is-ready stuff. Hand me down that baggy old gray coat and pants and give me a pair of old shoes."

"Shall you have the waistcoat?" inquired Beaton politely from the recesses of the closet.

"No!" shouted P. P. "I don't wear 'em. I'm too fat. They interfere with my circulation. Bad for my health."

And he winked at the imperturbable Britisher as he emerged.

"What's your name, son?"

"James William Beaton, sir."

"I'll call you Jimmy."

"Very good, sir."

"For God's sake, learn to say 'all right.'"

"Right-o!" chirped Beaton, falling into the spirit of the game. "May I ask if you will 'ave your 'andkerchiefs perfumed, sir?"

The vice-president of Cuban Cruce paused in the act of drawing on his breeches.

"Yes," he replied, "scent me good and strong. Fill me up with the breeziest stuff you can buy and then step on it. It may help us get by the old lady."

Beaton soon became letter-perfect in his new duties. P. P.'s wardrobe bulged with beautifully hanging suits, his shoes shone in lustrous rows, ties of many colors filled his bureau drawers. The young valet seemed to be always engaged in pressing his master's clothes. Whenever Edna poked her head into P. P.'s room there was always a nice new suit on the back of a chair, with a pair of suspenders carefully attached to the trousers, and a display of fresh underclothes and neckwear like that in the window of a Bond Street haberdasher. And over all there breathed a scent like the odors of Edom, which was as incense divine to Edna's snobbish soul. P. P. was so pleased with the success of the scheme that he conceived a very friendly feeling for Beaton and used to ring for him while dressing in order to talk to him. On these occasions P. P. usually ended by presenting the valet with something from his overload of belongings—an article of apparel or disused piece of jewelry.

However, we perceive that entirely too much attention is being accorded here to P. P. This story relates not to him but to his wife, a very different sort of fish.

She was in fact just the opposite from Pumpelly, for she was ashamed of everything about herself that was really decent and worth-while, which, we may add, wasn't much. Her aim and ambition were to make everybody think that she was something that she wasn't, and, as she was so obviously what she was, she made a

miserable failure of it. In a word, though she lived on Seventy-third Street, she never got socially beyond Canal. The real swells had no use for her. They would have stood for P. P., maybe, because whatever he may have been he was real; but not for Edna, because she was a fake. So she played the great lady to tradespeople, elevator men, and waiters, paying them to pretend they thought her a leader of fashion and taking out her chagrin on her servants, seamstresses, and other helpless people about her who could not stand up to her without losing their means of livelihood. She took a special dislike to Beaton, laying it up against him that he didn't make Pierpont more presentable. She did not know exactly what was wrong, but she was conscious that something was rotten in her husband's sartorial estate. She blamed Beaton for it. That was what they paid him ninety dollars a month for, wasn't it? With all those suits of clothes hanging up in the closet, she should have thought he could have managed to find something more o-fay than that wretched old moth-eaten gray suit P. P. had brought along with him from Athens five years ago. A waste of good money! The man didn't know his business.

Pumpelly insisted that he had particularly asked Beaton for the gray suit because he liked it himself. The boy was all right— "H'm! *Quite* all right." Surely she had noticed how industrious and attentive he was. Edna had the decency to acknowledge that the

vallay seemed busy enough. That wasn't the point. Did the fellow know what was what? For instance, she'd never seen any other gentleman wearing a white tie with a dinner jacket. P. P. gazed blandly at her. She hadn't! Well, that just showed! She could put her mind at rest and let it go to sleep. Beaton had all the books on etiquette beat a mile. He was, P. P. opined, the anonymous author of What the Man Will Wear. This quieted her for a time.

Came then that awful evening—Edna swore she'd never get over it as long as she lived, never!—when they went to Mrs. Morganthaler's evening reception, and she discovered that he had on congress boots. That finished her. He must get rid of that man. He must get rid of that man! That was all there was to it! She'd never have the courage to look Mrs. Morganthaler in the face again. P. P. strove to pacify her with marked unsuccess. Her pride—it was her pride that had been hurt.

Pierpont found himself in an awkward position. If he admitted that Beaton was in no way responsible and that the congress boots were his own idea, he would pay the penalty of his uxoriousness and the vials of her wrath would be emptied down his neck. But if he put it on the valet the innocent would suffer for the guilty. So, like the honest chap he was, he told her the truth. Beaton had laid out his full-dress clothes, including pumps; and he, her faithless Pierpont, had deliberately

kicked 'em under the bed and not bothered to change his feet at all. What was the use? Just goin' over for a few minutes to Morganthaler's! It wasn't a dancing party. Beaton wasn't to blame at all. He besought her to promise that she would take his word for it and leave the poor feller be. She promised, because she wanted P. P. to give her a new thirteen-hundred-dollar mink coat, but in her secret soul she vowed to herself that she would "get" Beaton the first chance she had. There was something about him that wasn't right. She only half believed Pierpont about the pumps. He was trying to shield the man for some reason. Why?

Suddenly she saw it all! They were working together against her. A conspiracy! P. P. paid Beaton to let him wear what he chose! Beaton was a traitor to the cause of her social progress. The nerve of that man! What was a vallay for but to see that one's husband put on the right sort of clothes before he went out? The trouble was he was too young; didn't have enough authority. She must get a man—a big, heavy man—who, if Pierpont rebelled, could shove him into a corner and willy-nilly put the right pants on him. But first she must get rid of this one. She began to hate Beaton. He had been unfaithful to her; he had got her in wrong at Mrs. Morganthaler's; he was conspiring against her, no doubt stirring up trouble with the other servants—and she was conscious that he scorned her. That was the real secret of her venom. He was always respectful,

but he never treated her as if she were what she paid him to pretend he thought she was.

But when she asked Pierpont to dismiss him he protested that Beaton was an excellent valet and perfectly satisfactory. He couldn't dismiss a man without cause. She begged him to do so, as a favor to her; but he was stubborn about it, and at length angrily refused. She could mind her own business. Edna had occasionally seen P. P. like that out in Athens, and the recollection of what had happened was not pleasant. She could not afford to have anything so undignified happen here in New York. So she subsided, nursing her hatchet. Then Cruce got a big contract for steel plates for a new fleet of Clyde-built steamships, and P. P. had to run over to Glasgow for a few weeks. Her opportunity! She did not dare fire Beaton right off the bat, but she made up her mind to get the goods on him and give him the sack before Pierpont came back.

Together, she and the housekeeper went on a still hunt to Beaton's room on his afternoon out. It was a dreary enough place, seven by ten, with hardly enough room for a cot bed, a bureau, and a wash-stand. No chair. The housekeeper had said chairs gave servants the habit of sitting in their rooms, which was bad and used up electricity. Let them go to bed and get their rest so they could properly do their work. There were two photographs on the bureau: one of a middle-aged woman with tired eyes; the other one of a young girl

with high cheek-bones and a "bang." A hairbrush, a broken comb, and an alarm clock were the only other visible evidences of crime.

"I thought maybe we'd find he'd been smokin' his old pipe up here," sniffed the housekeeper. "Most of 'em do. I don't allow it. They can go outside if they want to smoke."

Mrs. Pumpelly shrugged her shoulders.

"We ain't through yet," she replied, pulling open the top drawer. "Gracious me! I should say not!" she added triumphantly. "Look at here! If that ain't Pierpont Pumpelly's cigarette-case I'll eat my hat! And there's the watch fob that belonged to my Great-uncle Moses! Well, I never! The man's a thief, that's what he is! It was worth while coming up here! I wonder how many other things he's taken!"

A pasteboard box in the back of the drawer yielded an old-fashioned gold-plated watch, a heavy chain with an agate charm, two wiggly scarfpins, a pair of coral cuff-buttons, a single one of onyx, and a pair of paste studs—all easily identified as belonging to the Athens period of their existence.

"Got him!" hissed Edna through her teeth. "Miserable thief! I knew he was crooked!"

Then she pulled out the other drawers. The first contained several new suits of clothes; the second, socks, silk shirts, and pajamas, together with haberdashery of the most expensive sort.

"Ain't it awful?" she gasped. "Those shirts must have cost at least twenty dollars apiece. I'm not going to look a step farther. Anybody can swear to those bein' Mr. Pumpelly's things. You go right down and call up the police station—the one where I gave the captain that humidor with all those cigars last Christmas—and have him send an officer to arrest Beaton the minute he comes back. I wonder what Mr. Pumpelly will think now! A fine return for all our kindness!"

The housekeeper vacillated for a moment between sympathy and discretion, for Beaton had always impressed her as an unusually honest young fellow, and it was possible that Mr. Pumpelly had given him the things—anyone could see that the jewelry was practically valueless. She was on the point of suggesting that possibly it was a bit rough to have him locked up without hearing what he had to say, but at the sight of Mrs. Pumpelly's face she changed her mind.

"Very good, madam," she said obediently.

That was how the great case of the People of the State of New York against James Beaton for grand larceny in the second degree had its inception—in the hatred, malice, and uncharitableness of Edna's Pumpelly's heart.

She had had one experience already, from which she had learned the undesirability of invoking the processes of the law against the rich and socially elect unless quite

sure of one's ground; but she had not yet discovered that the law is no respecter of persons, and it did not occur to her that in its eyes she and the man she now accused were equally entitled to its aid and protection. From her point of view, this man was only her servant, a dependent. She could no longer, it was true, order him to be lashed or bastinadoed by her other menials—although theoretically, perhaps, it might be inferred from Section 1054 of the New York Criminal Code that such a proceeding might still be countenanced, since it proclaimed manslaughter excusable "when committed in the lawful chastisement of a child or servant." But all the same, she could have him locked up. That much at least was her inalienable right. Not even Pierpont could possibly criticise her for apprehending a thief, and it did away with the necessity of formally dismissing him and giving him a reference and all that bother.

Two plain-clothes men arrived in response to the housekeeper's summons, and after having searched Beaton's room thoroughly they arrested him as he was about to enter the house by the area entrance at half-past ten.

At first, although naturally indignant, he was inclined to take the matter as a joke. Mr. Pumpelly had given him all the things and would gladly say so. The officers, however, talked as if he were already convicted of being a thief, and this so got on his nerves that he gave them some back talk, as a result of which one of them punched

him violently in the stomach. Agonized and bewildered, he was then taken in a police wagon to the night court and arraigned before a magistrate, who held him in three thousand dollars' bail. The pain, the rough way in which he was shoved about, his ignorance of his rights confused and filled him with apprehension.

He was locked in a cell, where gradually his bodily misery gave place to torture of the mind. For he now for the first time realized to his horror that the only witness who could corroborate his explanation of the possession of the alleged stolen property had sailed for Europe, to be gone for an indefinite period. Even if in the end he should secure his liberty, what misery might he not be compelled to suffer in the meantime! Coffee and bread were given him in the morning, but after his sleepless night he was too wretched to eat. Sick with humiliation, stiff and unshaven, he shook his head when asked by the sergeant if there was anybody with whom he wished to communicate. But later on he recalled the gossip of the servants' hall and the story of the affair in which Mrs. Wells had got the better of his mistress through the ingenuity of Tutt & Tutt.

II

"Mr. Tutt," remarked Tutt as the senior partner of the firm paused at the door of his office and skilfully decorated the hat-tree with his stovepipe from a distance of seven feet, "I have news for thee."

The office force of Tutt & Tutt could always tell the altitude of Mr. Ephraim Tutt's psychological barometer by his ability to stand on the threshold of his room, send his tall hat spinning through the air and hang it on the top of the mahogany tree. When he could do that it showed, as Bonnie Doon asserted, that he was full of beans and that the devil had jolly well better keep his head down. The old lawyer stood now in the middle of the office, rubbing his hands together and smiling a good morning at them as benevolently as a Sunday-school superintendent about to announce a chicken-pie supper in the church vestry on Friday evening. Yet because he had hit the bull's-eye with his hat, they all knew that underneath the benign exterior there was coursing through his arteries that extoplasmic ichor which at times made him act more like Pan or Puck than St. Thomas Aquinas or Cardinal Manning.

"Ha!" cried he, sweeping the assembled Tutt family from beneath his shaggy eyebrows, and scenting, like Job's war horse, the battle afar off, the thunder of the captains, and the shouting. "What news, watchman, of the night?"

Then without more ado both partners simultaneously produced their joint and several implements of intellectual labor—Tutt his cigarette, Mr. Tutt his stogy—and therefrom arose the smoke of council. It was characteristic of them that in every aspect of their professional life their relations to one another, whether physical or

psychologic, were inevitably the same. Thus Tutt prepared the cases and dished them up carefully for Mr. Tutt to try; and thus—when Mr. Tutt smoked, Tutt held the match. Accordingly, having on tiptoe assisted in lighting the sacred fire upon the altar of his partner's mind, he applied the match to the end of his own cigarette and turned to the legal group about them, consisting of Miss Minerva Wiggin; Miss Sondheim, the stenographer; Ezra Scraggs, the alcoholic scrivener; the ubiquitous Mr. Bonright Doon, and Willie Toothaker, erstwhile office-boy, but now a near-lawyer on the point of taking his examination for admission to the bar.

"Yea, verily, and of a truth!" quoth Tutt, conscious that his words would arouse delight if not enthusiasm. "Lady Edna Pumpelly has been getting gay again."

"You mean the one who got a summons for Mrs. Rutherford Wells for blocking the street with her motor?" asked Miss Wiggins reminiscently.

"The same!" replied Tutt with a grin. "You remember, of course, how we sent Bonnie up to her house and found she'd been consistently violating every ordinance passed by the city fathers since the town was bought from the Indians. Bonnie summoned her for over a dozen trifling offenses, and she lay down, dropped, reneged, or whatever the expression is, in a hurry! Tit for tat! Eh, Bonnie?"

The redoubtable Mr. Doon nodded carelessly.

"Tutt for Tutt, you mean," he corrected. "She's

just an ostentatious idiot! But the old man's all right —a good sort. I found out afterward he was a Sacred Camel. Gave me a shot of the best hooch I've had since Michaelmas."

The dry lips of Scraggs clicked involuntarily.

"What's Her Grace done now?" asked Mr. Tutt, twirling his swivel chair and then adjusting himself in the characteristic pose which he found most conducive to mental effort. "How has her individuality expressed itself this time?"

"By getting one of her menservants arrested for stealing a few old hand-me-downs, a tin watch, and some snide breastpins her husband gave him. She had it in for the man for some reason, and as soon as she found that this old junk was up in his room she sent for the cops, had him yanked to the police station and locked up—just like that! He was a pitiful sight to see, poor chap, this morning. They had treated him pretty rough; he was scared blue and was nearly all in. So I bailed him out and sent him over to the Commodore to get some breakfast; and, if I do say it, he was ready to kneel down and say his prayers to me. Beaton's his name."

"But where's Pumpelly?" asked Mr. Tutt. "How could she get the man arrested unless her husband disclaimed giving him the clothes?"

"In Europe!" answered Tutt with a flourish.

Mr. Tutt gazed at Tutt incredulously.

"In *Europe?*" repeated Mr. Tutt.

"In EUROPE," asseverated Tutt.

The elder partner swept his long legs from the desk and sprang to his feet with the agility of a two-year-old.

"Then, by Coke, Littleton, and Max D. Steuer," he exclaimed, shaking his fist in the air above his head, "she hath digged a pit for herself into which she shall surely fall! What sort of person is this manservant?"

"I thought he was a corking good fellow!" answered Tutt. "Served in the ranks during the war, was gassed, and entered domestic service over here after his discharge because there was nothing else he was fit for. Had no object whatever to take any of those old duds. He was making ninety a month, sent seventy-five of it home to his old mater in Devon, is engaged to marry a girl from his home town as soon as they can save enough money to start 'a public' as he calls it, and is altogether the stuff you'd expect. In fact, he's worth about ten thousand of Edna Pumpelly and some few of her husband."

"But why did she do this?" demanded Mr. Tutt, his jaw stiffening in a way that boded no good to the Duchess of Athens, Ohio. "How could she do such a thing?"

"Just out of sheer cussedness," replied Tutt. "She's a cheap skate and a snob. This poor guy was, as she thought, her social inferior and she had it in for him probably because he didn't kotow to her enough."

For a full half minute the senior partner of Tutt &

Tutt stood in silent indignation; then the lines about his mouth softened, his face twisted itself into a whimsical smile, and he brought down his fist upon the desk so that every stogy in the box leaped for very joy.

"Won't I everlastingly swangdangle that woman!" he cried.

"Do wha-a-t to her?" exclaimed his partner.

"Swangdangle her!" repeated the greater Tutt.

"Who ever heard of such a word!" grunted Tutt the lesser.

"Just because you never have——" countered Mr. Tutt. "It's from the—er—Aramaic."

"More likely from the Eskimonian!"

"Look here, Tutt!" cried Mr. Tutt with sudden irascibility. "If you had a little more culture! Why don't you educate yourself? Some day I'm going to write a book to be called Half Hours With the Best Dictionaries."

"Humph!" grumbled Tutt suspiciously. "What does this swangdangle word mean?"

Mr. Tutt solemnly placed his right hand on the top of his partner's head and turned the latter's face upward toward his own.

"Don't you know all-fired well what I'm going to do to her?" he demanded.

"Ye-e-es," acknowledged Tutt. "I—guess—I do."

"Well," exclaimed Mr. Tutt enthusiastically, "that's *exactly* what it means!"

III

Mrs. Pumpelly, having, as she supposed, in thus ordering the valet-varlet to prison, vindicated her importance in the eyes of her other domestics and vented her spleen upon her husband's co-conspirator, began on second thought secretly to wish she had been a trifle less hasty. She had acted on the impulse to make a lordly gesture, but now she wondered whether it might not have been better to have consulted a lawyer before doing anything. She had no intention of going into any nasty police court herself—no, indeed!

However, she reassured herself, Simmons the butler could identify the objects found in Beaton's room as belonging to her husband, and qualify as complainant on the theory that they were in his care and custody, and had been feloniously removed therefrom. That would let her out. All the same——

A vague disquiet filled her ample bosom. What would happen next? Suppose by some mischance the valet were acquitted? Mightn't he sue her for damages? She remembered the trouble she had got into in summoning Mrs. Wells; but, of course, that was different. This man was a nobody, and a thief at that. Nevertheless, as the hours passed on the day following Beaton's arrest, and Simmons still absented himself, she began really to worry. It was annoying not to know just what Simmons was doing, how long he'd have to be away,

how many times he'd have to go to court and all that. It might upset the house dreadfully to have him hanging about a police station all day long when she could not charge it as part of his time out; particularly on account of her bridge party next week to raise money for building the inns for Indigent Indians. Anyhow, there was no reason why Simmons shouldn't have sent some word to relieve her anxiety.

To her exasperation he did not return until nearly six o'clock. They had kept him there, he ruefully explained, against his violent protest in order that he might make a statement to the deputy assistant district attorney in charge of those cases where the complainants were not represented by their own lawyers. Mrs. Pumpelly had not engaged any lawyer, so it had been necessary for him to wait to explain the matter to the district attorney, who had been very busy all morning and had gone out to lunch at a quarter to one and had not come back until long after three. The latter had then amused himself in trying a bigamy case in utter disregard of the butler's convenience. Mr. Simmons consequently had not had any lunch at all! Worse still, after the conclusion of the bigamy case the district attorney had utterly disappeared, oblivious of the presence of Simmons.

"You mean that after keeping you there all day the man didn't even take the trouble to speak to you?" demanded Edna.

"Exactly so, ma'am," said Simmons in a faint voice. "'E hevidently forgot me hentire."

"Well," snapped Lady Pumpelly, "that's a pretty how d'y'do! What happens now?"

"I don't know," confessed Simmons, whose dignity had suffered severely. "They all seem a very hordinary sort of people, madam. Very hordinary! They pay no hattention to one at all. Brush one aside, as one might say. I call it plain himpudent."

"Where's Beaton now?" inquired his mistress, drawing in her lips.

"I don't know, madam. I didn't lay heyes on 'im!"

"Simmons," cried Edna wrathfully, "you're a fool! Haven't you any idea what's got to be done next?"

"No, madam, he replied. "But I ventured to hask one of the minor hofficials and 'e hinformed me that I had better return again to-morrow morning."

It was at that point that Mrs. Pumpelly concluded to retain Tutt & Tutt right off and have them attend to the whole matter for her; but to her surprise and dismay when she telephoned to their office she was politely informed that they had already been retained upon the opposite side.

Beaton retain lawyers! And Tutt & Tutt at that! She cursed herself for her delay. The thing might prove serious. She could just as well have retained them herself before taking any steps whatever. Now she wished that she had. In genuine trepidation she called up her

husband's law firm, Edgerton & Edgerton, got Mr. Wilfred, the elder of the two brothers, neither of whom she liked, and explained the situation to him to the best of her ability. What should she do next? She couldn't just let the thing go at loose ends! Mr. Edgerton was somewhat vague, the truth being that he had never been in a police court in his entire life. Neither, for that matter, had Mr. Winfred, his younger brother. They were—Edgerton & Edgerton—very high class and always went to lunch together at the Downtown Association on Cedar Street, where they could see other lawyers equally high class and be seen by them in return. They were the variety of Wall Street attorneys who wear dickies and tall hats and are supposed to sleep in them.

Mr. Wilfred "smeared" the unfortunate truth as well as he could and told Edna he'd take the matter up immediately. Then Brother Wilfred asked Brother Winfred what to do, and Brother Winfred asked him how the hell he should know, to which Brother Wilfred replied that there was no sense in being snorty about it, for P. Pumpelly was their chief client and Cuban Cruce their one best bet. In the end Brother Wilfred put on his tall hat and, swallowing his pride, went over to see Mr. Tutt, who received him kindly and informed him that Mrs. Pierpont Pumpelly's impulsiveness would cost her exactly ten thousand dollars. This seemed very curious to Mr. Edgerton.

"But, sir," protested the elegant but baffled lawyer,

"you do not seem to understand the situation. It is *my* client who has had *your* client arrested for a criminal offense—grand larceny in fact. I am—h'm—not very familiar with such matters, but I suppose the easiest way to dispose of this unpleasant case is for *your* client to enter a plea of guilty and throw himself upon the mercy of *my* client and of the court."

Mr. Tutt smiled amiably, tendering Wilfred a stogy, at which the latter shuddered.

"Undoubtedly," he agreed, "that would be the easiest way to dispose of it—for *you*. But, unfortunately, from our point of view it would not accomplish the ends of justice. You say quite truthfully, Mr. Edgerton, that you are not very familiar with these matters. I do not wish to take any unfair advantage of you. Let me suggest that you retain some one who is familiar with criminal procedure to take charge of this case for you."

"Thank you," said Wilfred rather stiffly. "My office is quite capable of handling a simple case of theft. May I ask what date has been set for the hearing?"

"Next Tuesday, in the Fifty-seventh Street Magistrate's Court," affably replied Mr. Tutt. "Shall I meet you at Philippi?"

"Er—possibly," stammered Wilfred, not entirely sure of the allusion. "At any rate we shall be represented by counsel."

The shook hands formally.

"I wonder what he meant by saying it would cost

Mrs. Pumpelly ten thousand dollars!" pondered the lawyer as he went down in the elevator.

It is certain that Edna Pumpelly had never heard of the verb "swangdangle." It is even possible that nobody else ever did and that Mr. Tutt may have made it up. It may never become part of our national vocabulary until the publication of Ephraim Tutt's Half Hours With the Best Dictionaries. But even if Edna had never heard of it, she certainly was everlastingly swangdangled to the end that she decreased markedly both in weight and cubic contents.

In the first place, she had always supposed that if one had a person arrested for a criminal offense, the police, somehow or other, saw to it that he was immediately sent away to prison. It was like calling in a plumber or a paper-hanger. You pressed the button, they did the rest. You had nothing more to think about except to pay the bill. So, here, you sent for a policeman and that was the end of it!

End of it! Many a night during the succeeding months Edna Pumpelly lay awake in her blue-silk bed wondering if the case of the People of the State of New York versus Beaton would ever end. For she had long since discovered to her disgust that when a person was arrested that was only the beginning of it. Mr. Wilfred Edgerton had explained fully, and with much decorously suppressed irritation, how—after he and his brother and their entire office staff had spent the greater part of a

week briefing the law on the subject of grand and petty larceny, burden of proof, presumption of innocence, presumptions arising from possession and exclusive opportunity, reasonable cause, and the proper procedure in magistrates' courts, and had personally appeared in support of Simmons and had waited, from nine in the morning until half-past twelve, to lay the whole case properly before the judge—that Mr. Tutt hadn't even turned up at all! He had merely sent a casual and dilatory message that he was busy somewhere else. The judge had accordingly and with what seemed to Mr. Wilfred suspiciously like alacrity, put it over for two weeks, as Tutt & Tutt had requested. This had occurred four times! The Beaton case had, it appeared, simply played heck with the law offices of Edgerton & Edgerton. Mr. Tutt kept them marching like Humpty Dumpty up to Fifty-seventh Street and then marching back again—books, briefs, bags, papers, and all.

As for Simmons, it had destroyed his usefulness as a butler in toto. He had become an aged man, worn to a frazzle. Meantime Beaton had got another job—a very good one, it was said. He had gone to work for one Mr. Ephraim Tutt.

Thirteen weeks had now elapsed, with Edna Pumpelly on tenterhooks, and nothing whatever had happened. But then something happened with a vengeance! She was served with a summons and complaint in an action for malicious prosecution and false arrest—Beaton

versus Pumpelly, in the Supreme Court of New York County—in which her husband's former valet demanded judgment against her for ten thousand dollars' damages. It was nothing but a bluff on Mr. Tutt's part, since an action for false arrest or malicious prosecution cannot be maintained until the criminal prosecution upon which it is founded is disposed of. But neither of the Edgertons knew this, and it shocked and alarmed her, although she pretended that it merely made her tired. Mr. Edgerton, who knew no more law than most lawyers, now perceived the significance of Mr. Tutt's allusion. Edna was furious. The man might just as well have asked fifty thousand, she said. What was to be done about it?

Mr. Edgerton answered that so far as he could see there was nothing to do about it, but to wait until twenty days were up and then put in a "general denial." It couldn't be tried for a couple of years, anyway, on account of the congestion of the calendars, and delay was always a good thing. Edna said she didn't want any delay; that she wanted the matter attended to at once. Why should the man be allowed to hold a baseless claim over her head for two years? Wilfred patiently explained that it wasn't *his* fault. Usually, he said, people who had actions brought against them wanted all the delay they could get, to tire the plaintiffs out.

At that Edna saw a great light. That was just what Beaton was trying to do to her in the criminal case—

tire her out! Well, he'd see! He'd see! Tire her out! Ha! Ha-ha! Ha-ha-ha!

The worst feature of it to her mind was that P. P. might come back at any moment from Glasgow right in the middle of everything. Her idea, of course, had been to have it all over and done with, ages before he came home. The row had started just after Christmas, and already it was March! And as yet not even a police-court hearing! For every time the case came up, that old Tutt, using Pierpont's absence as an excuse, asked for and secured another adjournment on the ground that her husband, as owner of the goods, was a necessary witness for the defense. She blamed the Edgertons for it, declaring on her biweekly visits, in a tone audible to their entire office equipment, that they were a pair of "bum lawyers," flossy little silk-stocking attorneys, who let Tutt & Tutt put it all over them. Couldn't they even bring the case to a preliminary hearing? What worried her was the possibility of P. P.'s coming back before it should be held and testifying that he'd given the things to Beaton. But she was saved that humiliation.

To her relief and, indeed, somewhat to her astonishment, the Edgertons called her along in April, and announced that Mr. Tutt had at length stated that he was ready to go ahead with the case. Would she please be at the police court the next morning and bring Simmons, the housekeeper, the clothes, and the jewelry along with her? She stormed over the wire that she'd

do no such thing. *Her* in a police court? And she was no express-wagon either! However, in the end she went, terrified to her deep heart's core lest old-fox Tutt should cross-examine her about P. P.'s friendly attitude toward his valet.

She sat with her French maid in a fetid crowd of Italian women whose husbands had vanished into the void, of Slavonian bigamists, fatherless babies, drunkards' wives and sweethearts, evicted tenants, police officers, and miscellaneous ladies without visible means of support. "Move along there, you!" Thrice she was on the verge of committing assault on a policeman—once of murder in the first degree. For three hours she breathed air like that of the Black Hole of Calcutta. But she stuck it out bravely, because she intended to let the judge see just what sort of a miserable crook this Beaton was!

"James William Beaton to the bar!"

Edna's internal mechanism suddenly went into reverse gear. She arose shakily. So did Beaton. It seemed that he had been sitting right behind her—no difference between them! The valet looked well-dressed, carefree; even smiled slightly. The impudence! Simmons also moved forward.

"Well, now, step up here—all of you!" said the judge sharply. "What do you want to do with this case, Mr. Tutt?"

To her great disgust she saw old Tutt leaning over

the bench. Why should the judge address him and not her? It looked suspicious. The whole thing was crooked! The judge appeared to be sneering at her.

Mr. Tutt peeked quizzically over his lank shoulder in her direction as if he were looking over the top of a flight of steps.

"Your honor," said he dryly, "we have decided to waive examination."

"Well, what's the meaning of that?" panted Edna indignantly when they were all outside again.

"It means," said Mr. Wilfred Edgerton, "that the defendant is willing to have the case sent to the grand jury without any preliminary hearing in the magistrate's court. You have won your case—in a sense."

"How d'ya mean—'in a sense'? Isn't the judge going to send him to Sing Sing?" she persisted angrily.

"This judge can't. The man's got to be indicted first by a grand jury and then tried by a petit jury. If the petit jury find him guilty the judge presiding will send him to prison."

"Oh!" Edna showed her disappointment. In her excitement she had forgotten about the grand jury—and the petit jury!

"But this judge here might have found the evidence insufficient and discharged the defendant right off now if he'd wanted to," explained Wilfred proudly. "By waiving examination and consenting that his client be

held for the action of the grand jury Mr. Tutt has, in effect, conceded that we have a case."

"I don't want any concessions from that old scalawag!" she snorted. "I can get along without any help from him. What's back of it all?"

Mr. Wilfred rubbed his hands together after the manner of a curate seeking to register humility.

"I cannot say," he breathed. "I cannot say. But——"

"But—what?" she exploded.

"It is just conceivable that Mr. Tutt *wants* his client indicted, so that he can—er—get more delay. If the man is once indicted and let out on bail it may be several years before he can be tried."

"Is *that* so?" queried Mrs. Pumpelly in a high sarcastic voice. "Listen here! I've had about all of this shilly-shallying and diddle-daddling I'm goin' to stand! If you don't get busy and *do* something I'm going to get another lawyer, little man!"

That "little man" finished Edgerton & Edgerton. Edna got another lawyer, a Mr. Delancy, and was quite delighted with him—until he sent her a bill for a thousand dollars. But when in a rage she took a taxi to his office and demanded the reason for any such charge, he told her quite calmly that unless the matter were handled with the utmost care and skill the case might be thrown out by the grand jury, or dismissed by the district attorney, or the defendant acquitted by the

trial jury; and that on the disposition of it hung the possibility of her having to face a ten-thousand-dollar judgment in Beaton versus Pumpelly, for Mr. Delancy took it for granted that Edgerton & Edgerton knew what they were up to. She turned rather faint at this. What were the chances, she asked, of any of those things happening? Mr. Delancy looked at her significantly. The first two—a dismissal by the district attorney or grand jury—were unlikely, he said, because of Mr. Tutt's attitude, which seemed to be rather as if he wanted his client both indicted and tried. As to the result of a trial, it would all turn on what Mr. Pumpelly might testify to. Edna stared at him. But Mr. Pumpelly was in Glasgow! Well, he was coming home sometime, wasn't he? suggested Mr. Delancy. In the end Edna paid over the thousand. That, with her bill from Edgerton & Edgerton, made twenty-five hundred that her malice had cost her.

It was about this period that she got a letter from P. P., saying it looked as if he'd be tied up over across there for some time yet. Afterward he might have to go to Cracow, he said. Edna had lost thirteen pounds and a lot of her self-confidence. Beaton had been indicted, had pleaded not guilty, and had given bail in five thousand dollars. Then The People versus Beaton disappeared off the map. Toward Easter she inquired of Mr. Delancy when it was probably going to be tried. He said gruffly that it wasn't probably going to be tried

any time; it would be tried when the "D. A." got good and ready and not before; that it was a bail case and in the usual course of events would come up in a couple of years; there was nothing either he or she could do but possess their souls in patience—two hundred and fifty dollars, please.

It was then that Edna Pumpelly, née Haskins, wife of Vice-President Pumpelly of Cuban Cruce, awoke to the miserable consciousness that she had really started something. She had honestly supposed that Beaton would be cast into prison merely on her say-so; or, if she so preferred, on Simmons' say-so. But she now perceived that it wasn't so easy. Beaton had rights that the law was bound to respect, even if she wasn't. It was clear that no judge was going to force the case to trial in P. P.'s absence. Meanwhile it slumbered in the pigeonhole of Deputy Assistant District Attorney William Montague Pepperill, who privately intended in due time "to shoot it in some day with a lot of other junk and try it off the papers."

"Came the merry month of May, when all nature," etc., etc. But nature seemed naught now to Edna but a pestilent congregation of vapors. She was down to one hundred and seventy-nine; absolutely off her peck; wished she was dead, she did. If she could have dropped the case against Beaton she would have done it like a shot, but Delancy had told her that such an act would be absolutely fatal in the civil action of Beaton

versus Pumpelly. After she had had the man arrested, thrown into jail, indicted and put on bail, to lie down now would make it impossible to defend the false-imprisonment action—cost her ten thousand. Doctor Crass, her gastro-intestinal specialist, insisted that she ought to travel, and not knowing what else to do she took a flying trip out to Athens to visit Mother Pumpelly, who always disagreed with her violently. It was here that she got a cable from P. P. saying that he would be obliged to spend the summer in Italy and suggesting that she join him in London. It really came to her as a great relief.

Up to this time she had not written a word to him about her troubles, but now she looked forward with eagerness to the time when she could lay her head on his shoulder and pour forth her sorrows. The mere thought of going abroad and getting away from everything filled her with delight. After all, the case wasn't coming up for a couple of years and she might as well eat, drink, and be as merry as possible in the meantime. She made up her mind that she just wouldn't do a thing to Paris!

Simmons got her the Presidential Suite on the A deck of a crack boat for thirty-five hundred—French salon, brass bed, hot and cold, fresh and salt—and then called up the society editors and asked each of them to run a stick to the effect that Mrs. Pierpont Pumpelly, wife of Vice-President Pumpelly of the Cuban Crucible Steel

Company, was closing her house in East Seventy-third Street, and was sailing on the seventeenth inst. to join her husband in London for the season.

"Later on Mrs. Pumpelly expects to spend some time motoring in the Tyrolean Alps."

Mrs. Pumpelly passed the period intervening before the sailing of the steamer in delightful anticipation. She hadn't been so happy and carefree since that miserable day she had had Beaton arrested nearly six months before. There were a lot of people she knew going over for their annual spring spending, including Mrs. Morganthaler, and Edna made up her mind that this would be a grand chance to make up to her again and square the bad impression which P. P.'s congress shoes might have made. Indeed, she felt so bobbish that she moved down to the Waldorf for a couple of days before the seventeenth so as to give the servants a better chance to close up the house and be a little nearer the dock herself. The night before the ship was to sail she gave a good-by party ostensibly for Mrs. Morganthaler—dinner in private dining-room, with small orchestra, theatre afterward, dancing at the Crystal Room and all that—and didn't go to bed at all. A real party! So she was a little peevish when she started for the slip at half-past ten, for although the steamer was not to sail till noon she thought it wiser, considering the Pomeranians and everything, to get to the pier promptly by eleven o'clock.

The crowds of motors and taxis moving slowly to the

entrance of the pier, the lines of longshoremen trundling bales and barrels, the stewards swarming about everywhere, the throngs of passengers—such nice-looking people!—the bustle, the activity, the gaiety of it all, thrilled and excited her. Assisted by Thérèse, she got her passport stamped, deposited Pompom and Poopoo in the stateroom, and then strolled back upon the pier to watch the last arrivals. She did love ocean travel, particularly on English boats! Everybody treated you so nicely! The English were the only servants who know how to be properly deferential!

"Excuse me!" said a voice suddenly at her elbow. "This is Mrs. Pierpont Pumpelly, is it not?"

Hardly looking round to see who it was—since she supposed it must be a reporter—she simpered with importance, "Yes, I'm Mrs. Pumpelly. I'm going over to join Mr. Pumpelly in Rome, you see."

Then she choked—sawdust in the epiglottis or something. She'd seen that young man before somewhere.

"Yes, so I read in the paper," smiled Mr. Bonnie Doon. "But all the same——"

For an instant the pier seemed to be rolling in a high sea. Automatically she received the paper which he shoved at her.

In the Name of the People of the State of New York:

To Edna Pumpelly: You are commanded to appear forthwith before the Court of General Sessions of the

County of New York, Part V thereof, at the Criminal Court Building in the City of New York, New York, on the seventeenth day of May, 1922, at ten o'clock in the forenoon of that day, as a witness in a criminal action, prosecuted by the People of the State of New York, against James W. Beaton.

Dated the City of New York, N. Y., the 17th day of May, 1922.

JOHN J. CARROLL,
Clerk, General Sessions of the Peace.

The pier was sinking beneath her feet. Already the Hudson was roaring in her ears. It was some horrible mistake!

"I—I thought this case wasn't coming up for a year or so," she stammered.

"Oh, dear, yes!" answered Bonnie blithely. "Mr. Tutt told me to put it on as soon as he heard you were going to Europe."

"He did, did he?" snapped Edna. "Well, I'm not a witness in it, anyway. My butler, Simmons, is the complainant. The district attorney can prove his case without me."

"But this," replied Mr. Doon, indicating the paper in her hand. "It is a subpœna on behalf of the *defense*."

"For the *defense!*"

"Precisely! We want you as a witness to the friendly relations between the defendant and your husband."

"But I thought Mr. Tutt didn't intend to try the case until my husband got back!"

Bonnie coughed slightly.

"I guess Mr. Tutt must have changed his mind."

Then she saw it all!

That horrible old man! He'd waited until the very minute she was starting for Europe, and then somehow got the case on for trial just to spite her, to prevent her going. But he'd been a little too smart! He couldn't stop her now! Nobody could stop her now!

At that moment the ship's whistle began to roar.

"I s'pose you all think you're pretty clever!" she said venomously, edging toward the gangplank. "But you're too late. You'll have to try the case without me or adjourn it until I come back."

The swell officer at the head of the gangplank touched his hat.

"All aboard, madam!"

It went to her head.

"Do you refuse to obey the subpœna?" demanded Bonnie, moving along with her.

Edna turned and faced him.

"You've said it!" She laughed harshly. "Tell the old judge that if he wants me he'll have to take me off the steamer!"

"Very well," replied Bonnie quietly, "I will."

Something in his manner terrified her.

The smoke was pouring in a black cloud from the

funnel and the air was pulsating with the hoarse diapason of the whistle. Two sailors were loosening the gangplank. It wasn't possible that there was anything he could do, was there?

"Move along, madam, please!"

"If you board the steamer I shall go up to the courthouse, get a warrant of attachment for your arrest and have the sheriff take you off the ship before you get past the Statue of Liberty!" he shouted.

She was glad that nobody else could hear on account of the noise.

"Nonsense!" she yelled at him.

"In a breeches buoy!" he flung back at her.

Mrs. Pumpelly felt her way cautiously up the gangplank. A moment later a crane lifted it into midair and it floated off like a feather. Another ship of the same line was also leaving, and the noise from the two whistles as they answered each other was deafening. Everybody was pressing to the shore side of the steamer. A crack of swirling water appeared between it and the pier. They were off! With immense relief Edna realized that she was no longer connected with dry land.

She craned her head at the crowd on the pier. Bonnie Doon had disappeared. Could they do anything to her? she wondered. Fine her a hundred dollars, maybe. But that wouldn't be until she got back. She would be safe for many a long month, touring in the Tyrolean Alps, before that could happen.

The bugle sounded lunch, that early hearty lunch so generously supplied by the transatlantic navigation companies while their vessels are still in the North River and on an even keel, and Edna thought she might as well find her table number, absorb a cup of bouillon and a caviar sandwich, and give her companions the once-over. She was feeling so much encouraged that she did not come up on deck again for nearly three-quarters of an hour.

The great liner was in midstream by this time, and slowly gathering headway, slipping along at about fifteen knots opposite Ellis Island. The city really looked too lovely, she thought, as, having made sure the dear little dogs were getting along all right, she lit a cigarette and strolled to the rail of the A deck just outside her stateroom door.

Somebody was already there, pacing slowly along, with his hands behind him. There was something vaguely familiar about the shape of his back, like the top of a stepladder. Then he turned, and in her excitement she dropped her cigarette.

"Good afternoon, Mrs. Pumpelly," said Mr. Tutt, removing his stovepipe with the grace of a Sir Walter.

The erstwhile Duchess of Athens leaned heavily against the bulwarks. To use her own picturesque diction, it was "a knockout."

"The city looks rather well from here, doesn't it?" went on the old man affably. "There's the Woolworth

Building there, and the Butterick Building there, and the Criminal Courts there; and let's see—the Tombs ought to be somewhere about *there*—a wonderful panorama!"

But Edna made no reply. There was a frog in her larynx. In spite of her terror she noticed that several other people had stopped and were gazing toward the Battery at something. A paralysis seized her limbs, but she raised her eyes in the same direction. A fast launch was tearing across the harbor from the direction of the Aquarium.

In the bow stood a young man—that same horrid young man!—with a paper in his hand. He waved it at Mr. Tutt as the launch raced alongside. There was another horrid-looking man with him too. And the unknown horrid-looking man was grinning.

The launch was now hanging expectantly in the current alongside. To Edna it looked as if it were at least a thousand feet below. The crowd had greatly increased.

Of course she had no means of knowing that the horrid-looking man down there was just a plain friend of Bonnie's, or that the paper was just a blank sheet of foolscap. Quite naturally, she took it for granted that the launch was a police launch carrying a deputy-sheriff with a warrant for her arrest. No breeches buoy for her!

The old lawyer sauntered slowly toward her, stovepipe

in hand. He seemed to be saying something to himself. What was he muttering about?

"'Agree with thine adversary quickly, whiles thou art in the way with him; lest at any time the adversary deliver thee to the judge, and the judge deliver thee to the officer, and thou be cast into prison. Verily I say unto thee, Thou shalt by no means come out thence, till thou hast paid the uttermost farthing.'"

The world went bad on her. She was called and she knew it. Aces!

"How much is it going to cost me to square this thing so's I can go to Europe?" she faltered.

"Exactly ten thousand beans," whispered Mr. Tutt. "And then you can forget it for the rest of your life."

Thérèse, who had been trying to get Pompom and Poopoo to go to sleep, was surprised to see her mistress with a very red face hurriedly enter the salon and sit down at the Louis Seize writing desk.

"And cheap at the price!" she heard Edna Pumpelly mutter as she signed her name to whatever it was.

THE LIBERTY OF THE JAIL

There are two kinds of lawyers—the one who knows the law and the one who knows the judge.—JOSEPH H. CHOATE.

There is a third kind of lawyer—the one that knows his fellow man.—EPHRAIM TUTT.

ONE of those breezy, back-slapping fellows; Javelin-collar type, you know, or thought he was; feather in his hatband; tartan silk neckerchief; cigarette with his initials; coat cut in at the tenth vertebra; the kind that calls his stenographer "sister"; known in *belles-lettres* as a paper sport; a mean one; T. Otis Crabb, his name.

He had foozled everything from the time he wore kilt skirts—sold books, bonds, softstuff, hardware, real estate, automobiles—everything except himself; this not his life story, but merely an episode. To cut it short, about his fifty-fifth year he met a rich widow—another mean one — called her "sister" — landed her — easy money!

Mrs. T. Otis Crabb, *née* Peterman, would have had you know that she was of another sphere. Really she was very much like Otis, although she had always had what she called "position," due to the circumstance that Father Peterman had reached New York in 1870,

when all one had to do was to buy a swamp lot and hold it to become a millionaire. Lucretia was his only child, but even to his prejudiced eye she lacked that indescribable thing called charm. Time sped and she still dangled, a withering pippin on what the bard refers to as the virgin tree. Her father and mother died, leaving her a fortune outright. Suitors came, but turned hurriedly away. At last old Admiral Buck was put in command of the Brooklyn Navy Yard—seventy-one, his eyes bad, but his taste for wine still good. So Lucretia became Mrs. Admiral Buck. Since she gained somewhat by being both married and official, her "position" became stronger than ever.

Then the admiral, having been retired by a grateful country, quickly drank himself to death, leaving the Widow Buck with not much in her life except bridge. Her second blooming synchronized with the jazz era. She might just as well have married her dancing teacher, but, as it happened, she ran into T. Otis at a *thé dansant;* thought him a dashing fellow. She had always wanted a dashing husband, and now she had one—gave him three thousand a year pin money. On their return from the honeymoon at Miami he developed influenza, had to give up work and lost all interest in girth control. After a month or so he got on Lucretia's nerves, sitting around the house and doing nothing but take the little white dog out in the afternoon. Also, with returning health he began to get a bit skittish. So she bought an

interest for him in Smith, Murphy & Wasservogel to get him out of the way.

After a while T. Otis didn't mind, particularly in the summer when Lucretia was out of town, although he always ran down to Atlantic City from Friday afternoon until Monday—liked the bathing. The rest of the time he devoted to his young-man-about-town complex. As he was gray-haired and fifty-five, it came high. In fact, it cost more than he got either from Lucretia or out of his share in Smith, Murphy & Wasservogel. He was a good spender—overdrawn at both banks.

His only friend was a dasher like himself, another of those rosy young-old boys you see on the billboards ogling a cigarette, a bachelor—Algie Fosdick, known on the Rialto as Fozzy. They hunted in the same leash. All summer long he and Algie palled it on the roof gardens, at Long Beach, and at Coney, and Lucretia let him use her runabout—the little yellow one with red wheels you always see on Broadway. It kept him quiet. He was a poor thing, but her own. Not nice people—any of them.

That is how the accident happened, the worst in years—T. Otis driving the yellow runabout back from Coney after a shore dinner with Algie and a couple of girl friends. He had had a little too much clam broth and thought he'd show 'em what the little bus would do.

II

"Mr. Tutt," said Tutt, hopping in over the threshold from the outer office like a belated robin, "may I disturb you for a moment?"

The old lawyer turned from the window through which he had been contemplating the Syrian wash fluttering from the roofs of the nether tenement houses.

"Tutt," said Mr. Tutt, "you may."

"I want to kill a man!" said Tutt.

"Dear, dear!" answered his elderly partner. "Only one?"

"At the present writing, only one. But believe me, at that, hell's too good for him!"

"You surprise me, Tutt!" exclaimed Mr. Tutt, reaching down into the recesses of his desk for a decrepit bottle and pouring out a glass of amber-colored liquid. "Have some Malt Extract?"

"No, thanks," replied Tutt. "I never drank until prohibition, and somehow I can't seem to get used to it."

"I confess it is hard to break the habits of a lifetime," agreed his partner, absorbing the contents of the tumbler; after which, having replaced the bottle, he seated himself in his swivel chair, leaned back, crossed his long legs upon his desk, lit a stogy and locked his hands behind his head—his customary office attitude—while Tutt started an all-tobacco cigarette as a sort of

back fire and sank into the chair reserved for paying clients.

"You remember Wallace Barrington," began Tutt—"that young accountant we did some business for? His wife died two years ago, and he's been looking after his old mother and four children ever since. Firm paid him fifty-five hundred a year—pretty good; but his wife's illness took all his savings. They lived over in Flatbush, somewhere near the Coney Island Boulevard."

"Well?" inquired Mr. Tutt, exhaling a cloud of poison gas.

"Well," echoed Tutt, "he was walking home from an overtime job the other night and a drunken bounder motoring back from Coney with a party of women ran him down and smashed him up. He's done for. Wheel chair all his life, I guess. Earning capacity entirely gone. Nothing for it but to send the children to an orphanage and the mother to an old folks' home."

"What's the brute's name?" demanded Mr. Tutt, all attention.

"T. Otis Crabb. He's a banker and broker."

"Sue him for a hundred thousand dollars!"

"Won't do any good. He says he's broke. Threatens, if we do sue, to go through bankruptcy."

"Whose motor was it?"

"His wife's."

"Sue her!"

"Can't! She was out of town, at Atlantic City, and

swears he was using the car without her permission Rotten luck, for Crabb's wife is worth a couple of millions. I asked her if she would do something for the Barringtons, and she laughed in my face.

"'Me?' she says. 'What have I got to do with it? I wasn't in the car!'

"'But,' I said, 'it was your car that broke Barrington's back, and your drunken husband was driving it. Haven't you any heart?'

"At that she rang a bell and the butler threw me out."

"The female of the species!" muttered Mr. Tutt. "Won't either of 'em pay anything?"

"Crabb offered me five hundred dollars for a complete release. A good nerve! What?"

"Where's Barrington?"

"In the charity ward at Bellevue."

Mr. Tutt brought his feet down with a bang, and his tall frame shot toward the ceiling like an avenging jack-in-the-box suddenly released.

"Where is this cur Crabb?" he shouted.

"Right over in his office—smoking a perfecto paid for by Mrs. Crabb. Says he's sorry, but hasn't any money of his own. She underwrites him—all right; but if she keeps him she ought to be responsible for the damage he does!"

"Poor Barrington! I'll go over and see him at once," said Mr. Tutt. "Meantime just you call up this Crabb

animal and inform him that unless he sidles over here with twenty thousand dollars by to-morrow morning at ten o'clock we'll bring suit against him and his wife for one hundred thousand, and that it's going to cost them exactly five thousand more for every week he holds back. Meantime tell Barrington's mother to send us the bills for the rent and household expenses. It isn't exactly ethical for us to pay 'em, but what's a little ethics when an old woman and four children are starving? Eh, Tutt? Did you say you wanted to kill a man? I'd like to draw and quarter him, burn him in chains and boil him in oil! I'd like gently to peel off his epidermis and shake salt and pepper on his quivering subcuticle! I'd like—I'd like——"

He stood quaking with rage, his fist shaking in mid-air.

"U-r-r-h!" he roared. "And, by heck, I will!"

III

"There are two kinds of lawyers," said Joseph H. Choate—"the one who knows the law and the one who knows the judge."

But this cynically jocular aphorism is true only in a general sense. It is not enough for a lawyer to know either the law or the judge, or even both. To succeed in his profession he must above all else know his fellow man. In this latter quality Ephraim Tutt excelled.

Inevitably he knew his man, whether the latter were a mean-spirited complainant, a weak or timid juryman, or an uncertain or lying witness. The last thing he did was to look up the law; the first to study the characteristics, temperament, and relationships of the various *dramatis personæ* involved in any case; and he was accustomed to illustrate this great principle of practice by a certain litigation which, much to everybody's surprise, had resulted favorably to the defense for the sole but sufficient reason that the only witness for the complainant—who had a perfectly good case—owed the defendant's lawyer twenty-five dollars.

He used to say that it was as important to know what money men owed or what women they were in love with as to be able to quote the Statute of Frauds or the Fifteenth Amendment. By this we do not intend to intimate that Mr. Tutt ever resorted to improper means to win his verdicts, but only that he placed a proper value upon the so-called human element in every case. The law might be entirely against him, and so might the facts; but that never disturbed his equanimity so long as there was a jury to be appealed to; and he believed that the chief requirements for the legal career were a good digestion and a stout pair of legs. In a word, he was a practical man.

To him every case that came into the offices of Tutt & Tutt presented a concrete triangular problem, standing on its own bottom, and exposing three sides, on one

of which was inscribed "What are the facts?" on another "What's the law?" and on the third "What then?" And Mr. Tutt, a gangrenous stogy protruding from his mouth, his hands thrust beneath his coat tails, would saunter contemplatively around said problem, viewing each side in turn, but pausing inevitably before the last, where, if the truth must be known, the question of what the law or the facts actually were played a small part. There is more than one way to kill a legal cat, and Tutt & Tutt's job was to find the best method of executing every such feline that wandered into their office. Both Tutts enjoyed the law as a science and delighted in it as a craft, joyfully uniting science and craft in a scientific craftiness in which inevitably a pleasant time was had by all—except their opponents. They loved their profession for its own sake, apart from the fact that they earned their living by it; but they cared for it rather upon its pragmatic than upon its academic side.

Mr. Aaron T. Lefkovitsky, on the other hand, though also a legal pragmatist, was the kind of lawyer who mistakenly thought he knew both the law and the judge, and everything else. Like seeks like. A smart-Aleck client is apt to engage a smart-Aleck lawyer, much as men are said, out of personal vanity, to marry women who in general resemble them. Thus it was natural that T. Otis should have retained Aaron T. to defend the damage suits brought on behalf of the Barringtons against him and his wife. It was also natural that after

Aaron had blustered around for several months, loudly asserting that Tutt & Tutt could never get a verdict against his clients, the several juries interested should have soaked the latter an aggregate of fifty thousand dollars in damages. This unlooked-for consummation might have resulted in a loss of mutual confidence had it not been for the fact that T. Otis was unquestionably judgment-proof.

Nevertheless, one shadow still stalked behind him by day and hovered above his bed at night—his liability to arrest and imprisonment for debt in default of paying the judgment. This lever old Mr. Tutt still had concealed upon his lanky person, and both T. Otis and Aaron T. knew that he would certainly make use of it, the fact being that he had served written notice upon them that unless someone should pay that fifty thousand in full, with interest, costs, and disbursements added thereunto, within five days, he proposed to cast Mr. Crabb into durance vile, which, as it happened, would be just when Mrs. Crabb desired to take her departure to Atlantic City for the summer. As the lady did not want to go without her husband, and wanted neither to pay the aforesaid fifty thousand dollars nor to have it publicly known that T. Otis was visiting the warden of the City Prison, she immediately and in some distress telephoned to the Honorable Aaron T. Lefkovitsky, who stood not upon the order of his coming.

Hence there were assembled on a certain June eve-

ning, in the gilt drawing-room of the golden suite of the rococo apartment-house upon Riverside Drive overlooking the Hudson where dwelt the Crabbs—the lady herself, the Honorable Aaron, her dashing spouse, and Algie Fosdick, his friend.

"Well, Mr. Lefkovitsky," she was saying, "what kind of a mess have you got us into now, losing all these cases, and my husband threatened with jail?"

Mr. Lefkovitsky received the broadside good-naturedly.

"Jail!" quoth he nonchalantly. "A good joke, that is!"

"Joke!" repeated Mrs. Crabb in dudgeon. "It may be a joke to you, but a nice thing for me to have it in all the papers just as I'm going away for the summer! I'd almost rather pay the fifty thousand dollars and be done with it!"

"Not much you won't!" asserted the lawyer grandly. "And your husband won't go to jail, either; that is, really go to jail. All he has to do is to give a bond for the amount of the judgment, and under the law he gets the liberties of the jail. At the end of six months the bond is automatically discharged and that's the end of it. Nobody need ever know he's even been arrested."

He nodded his glossy black head sagely.

"I don't understand!" declared Mrs. Crabb suspiciously, for she was suspicious of all men, her only experience with the sex having been with her Admiral

and T. Otis. "First you say he'll have to go to jail, and then that he won't have to go to jail! What sort of bunk is that?"

"They call it going to jail, but practically he can go anywhere he chooses," said Lefkovitsky. "The jail limits in New York County are New York County itself!"

"You mean Otis can live right here in this apartment and still be in jail?" she demanded incredulously.

"You've said it!"

"I told you he was a smart lawyer, mamma," murmured Mr. Crabb.

"Don't you call me mamma," she retorted, "or go to jail you shall!"

As between Mrs. Crabb and jail, less hardened men might well have chosen the latter.

"All he has to do is to get a responsible party to go surety on his bond that he won't go outside the jail limits—Mr. Fosdick can act as surety. And then he stays right here, and sleeps at home."

"That's a funny sort of law!" ventured Mr. Fosdick. "How do you know the sheriff would accept me as a surety on the bond? I haven't a cent of my own!"

"He'll have to accept you if you put up the right sort of security," announced Mr. Lefkovitsky with authority.

"But where shall I get it?"

"Mrs. Crabb can loan it to you," suggested the at-

torney. "She merely deposits fifty bonds, or an equivalent amount in any good securities convenient to her, and at the end of six months, when Mr. Crabb is released and the bond is discharged, she gets them back."

"Are you sure I will?" she insisted doubtfully.

"Absolutely! I'll show you the law if you want to see it. Your husband just gives bond and walks around New York for six months and then it's all over. He can't be arrested again."

"Easiest way to save fifty thousand dollars I ever heard of!" beamed Fozzy. "Ain't it grand to be a lawyer?"

"But suppose there was some slip-up? What would happen to the money?" Mrs. Crabb inquired. "I'm a bit leery of this law stuff."

Mr. Lefkovitsky smiled with condescension.

"There won't be any slip-up."

"But if there should be?"

"Of course, if the bond was forfeited the securities would be used to satisfy the judgment."

"You mean the Barringtons would get our—I mean my—money?"

"If the bond was forfeited, yes," he replied rather impatiently. "But it wouldn't be forfeited. There's not a chance in the world. As I tell you, a man who has secured the liberties of the jail can go anywhere he wants in New York County. That's why I say that being arrested for debt is a joke."

"If that's all being arrested amounts to," pondered Mrs. Crabb, "why have any jail limits at all? The only thing I don't like about it is that Otis can't come down to Atlantic City over the week-ends."

The Honorable Aaron looked knowing.

"Maybe I could fix that too," he admitted modestly.

"Well, what do you think about that?" ejaculated Fozzy.

"Oh, if you can——" brightened the lady.

"Listen," said Lefkovitsky, helping himself to a cigar out of the silver box at his elbow on the strength of it. "I'll tell you something. Very few lawyers know it, either. When a man's arrested for debt and locked up —as when he isn't able to give a bond to remain inside the jail limits—the sheriff becomes personally responsible for him; and if the debtor escapes the sheriff is liable to the creditor in damages. But—and here's what most people aren't wise to—if the debtor voluntarily returns before the creditor can begin an action for damages by serving his summons and complaint on the sheriff the law says that any harm that has been done by his escape has been undone by his return, and that the action no longer lies. Get me?"

"Sure, that's easy!" assented T. Otis jauntily. "I should be a lawyer myself."

"Well," continued Lefkovitsky, "when a bond is given, conditioned on the debtor's remaining within the jail limits, that lets the sheriff out. The bond takes his

place, so to speak, and if the debtor escapes or goes outside the jail limits the creditor cannot sue the sheriff, but must sue the surety on the bond. Now freeze onto this: As any defense open to the sheriff in an action for an escape is likewise open to a surety in an action on the bond, if the debtor comes back before the action is begun the action falls; the creditor has lost his right to sue."

He looked around triumphantly.

"Well, what of it?" asked Mrs. Crabb. "What are you driving at?"

"I'm driving at just this: No action can be commenced legally except by personal service of the summons and complaint upon the defendant, on a week day, within the state. Therefore in any event your husband could go away on a Sunday, and so long as he came back within the jail limits before midnight no action could be commenced against the surety, no matter where he went."

"I see that," she nodded. "But Otis can't wait till Sunday comes to spend the week-end at Atlantic City with me and get back the same day. There would be nothing in that."

"Of course not!" agreed Lefkovitsky. "He don't have to wait for Sunday. Just let him take Mr. Fosdick with him when he goes, and he can leave New York on Thursday or Friday and come back Monday afternoon. Tutt can't begin an action on the bond while Mr. Fos-

dick is outside the jurisdiction, and he can't begin it at all after your husband has come back inside the jail limits. If they go away and come back on the same train everything will be all right."

"Well, I'll be danged!" ejaculated Mr. Fosdick in bewildered admiration.

"Certainly looks good to me!" said T. Otis. "What do you think, ma—my dear?"

Mrs. Crabb smiled appreciatively at Mr. Lefkovitsky, now entirely satisfied that she could keep her money and have her Otis, too, over the week-ends.

"I think," she replied, pressing the bell with sudden decision, "that anything as slick as that is worth a round of drinks. Grape juice, Martin."

While this distinguished group were engaged in the foregoing conversation upon Riverside Drive, Ephraim Tutt was sitting in one of the wards of Bellevue Hospital beside a cot upon which a human form was strapped immovably to an iron frame. Wallace Barrington was going to recover, but he would be a cripple for life; he, his mother and his children dependents upon public charity unless the law came to his aid. He was thirty-two, had been an expert in his line, a hard-working man of ideals. Now he was little more than an inanimate object. And the thought of what he had been and what now he was, the sudden collapse of his little universe, the crushing of all his hopes, were mirrored in the de-

spairing eyes he fastened upon the old lawyer's kindly face.

"So you're not to worry," said Mr. Tutt encouragingly as he felt beneath the chair for his stovepipe hat. "Your mother and the children are going right on living in the apartment, and there is a woman who comes in every day to do the cooking and take care of them."

"But who pays her?" asked the man in the frame hoarsely. "I had practically nothing in the bank."

"Oh, that's all right!" Mr. Tutt assured him. "The money is being advanced against the fifty thousand dollars which T. Otis Crabb will eventually pay you."

"How soon will that be?"

The lawyer wrinkled his nose and winked at the picture of one A. Lincoln upon the wall above the bed.

"I'm hoping he'll arrange to pay it in about ten days," said he cheerily.

"I shall never be able to thank you enough," whispered Barrington, closing his eyes.

But by the time the old man had reached the elevator the cheerful expression upon his face had vanished.

"What did you tell him that for?" he muttered. "You're a damned old liar, Tutt! Now, by thunder, you may have to support that family for the rest of their natural lives!"

He and Mr. Lefkovitsky passed—but did not recognize—each other on their way home.

IV

"And ten," said Mr. Joshua Carman, just like that, with his forefinger advancing two blues into the field of battle. An unemotional person, Carman, general superintendent of one of the big railroad terminals. It was the regular Saturday-night session of the so-called Bible Class of the Colophon Club, 11.54, and six minutes to go.

"I run," cravenly remarked Colonel H. Clay Jones, the next in order.

"*Ich auch!*" echoed M. d'Auriac, of Paris, who had run up from Washington.

"And even I!" squeaked the tiny little bear known as Peewee Cadwalader.

All laid down their hands and turned toward the Honorable Ephraim Tutt, whose elongated features expressed neither pain nor joy.

"I cal'late," muttered the colonel to M. d'Auriac as he clipped a fresh cigar, "that if no one is shy there should be exactly five hundred and twenty-three bones in that cemetery."

"Seven thousand eight hundred and forty-five francs —at to-day's rate," nodded the Frenchman.

"And ten," echoed Mr. Tutt, placing two more blues —his last—upon the leaning tower in front of him. "Farewell, dear little ones!"

"Making in all five hundred and thirty-three," murmured the Peewee.

Mr. Carman thrust his cards jauntily into his collar at a certain sanctified spot adjacent to his right ear. He had just two more blues. Nobody else had much of anything. It was all in the pot. He and Tutt had each drawn but one card.

"And ten," he whispered as if in an ecstasy.

The minute hand of the clock on the mantel had slipped to within two minutes of midnight. Mr. Tutt pulled back his sleeves and deftly removed the huge circular onyx buttons ornamenting his cuffs.

"Are these good for a raise?" he inquired.

"Sure!" nodded his adversary.

Mr. Tutt placed each one upon the apex of a pile of blue chips.

"And ten!" concluded the railroad man, shoving in his last.

The circle formed by the players from the other games in different parts of the room drew closer about the green table. All had frequently seen Mr. Tutt depart minus everything but his clothes.

"Well," moaned the old man, "though great is my faith in the hand which our distinguished military guest has dealt me, unfortunately I cannot walk home in the nude. However, I have one last resource. I will throw in my old tall hat and my ivory-handled cane—a sacrifice, you will admit, for I have used each of them over thirty

years—as equivalent to a raise. And since you have no more chips, Carman, I will bet the entire lot against a favor."

"A favor?" repeated the railroader, wrinkiing his forehead.

"That's a new one to me!" remarked the Peewee.

"Simple enough," explained Mr. Tutt, as if playing for a favor were an ancient and familiar custom of the game, although he had invented it on the spot. "If he wins he gets my all—except my skin and bones; if I win he has to do me a favor."

"What sort of a favor?"

"Oh, anything reasonable. Just a favor."

"Done!" agreed Carman. "Take notice, gentlemen, the Honorable Ephraim Tutt and I are now playing for the pot, plus his cuff buttons, tall hat, and cane, with a phantasmagorical, diaphanous, and elusive thing y-cleped a favor on the side. I call! He calls! We call each other!"

He removed the cards from his collar with a beat-that-if-you-can gesture and spread them face up before the crowd.

"Marjorie, Minnie, Molly, and Maud!" he murmured exultantly.

Mr. Tutt bent over and examined the ladies with interest.

"Dear me! Dear me! Nice girls, very!" he commented, spreading his own hand. "Joshua, Jephthah,

Japheth, and Jehoshaphat!" he chuckled, matching each queen with her own king.

There was a wild cheer from the onlookers as Mr. Tutt gathered in the pile upon the table. The clock was striking twelve.

"And now," said Carman with a grimace, "what is this favor I've got to do you?"

The old lawyer slowly replaced his sleeve buttons.

"I haven't lost you yet!" he whispered to them. "Why, I don't know, Carman. It is Sunday morning. Whoso hath an ox or an ass which hath fallen into a pit is entitled to have him hauled out on that day, as I read the Scriptures. Let's walk along together, and if you should care to stop in at my house maybe I could give you a drink of—h'm!—malt extract."

"I sure will!" said Carman, who, as we said, was in the railroad business.

V

"Pray pardon the simplicity of my welcome, Carman," remarked Mr. Tutt as he relieved his guest of his overcoat and hat, suspended them from one of the arms of the hat tree in the front hall, and preceded him up the rickety stairs to the library of the old house on West Twenty-third Street. "This being the Sabbath, my manservant and my maidservant are both resting."

He turned on the gas and ignited it with a safety match. Mr. Carman who had played poker with Mr.

Tutt every Saturday night for over fifteen years, but had never visited the old man at his home, looked round the study with interest. It was so just like Mr. Tutt himself! There was a sea-coal fire in the grate and a kettle steamed on the hearth; ancient engravings and a couple of colonial portraits hung upon the walls, which were covered with what Mr. Carman decided was the ugliest paper he had ever beheld; the carpet was threadbare—Turkey red; a horsehair sofa stood at one end of the room, and between the windows a high colonial secretary, while on each side of the marble mantel reposed two horsehair-covered walnut armchairs whose bottoms sagged to within an inch or so of the floor.

"Sit down, Carman," directed Mr. Tutt.

The railroad man looked suspiciously at the hammock-like seat of the nearest armchair.

"Hanged if I think, if I once sit down, I shall ever be able to get up again!" said he simply.

"Sit down!" repeated Mr. Tutt. "Will you have hot toddy, port, Madeira or sparkling Burgundy?"

He turned to the escritoire, the glass doors of which were lined with faded green silk, and, unlocking it, disclosed a small but complete collection of bottles of all shapes and sizes. Mr. Carman sank instantly into his allotted hole.

"Burgundy!" he answered hoarsely with a light in his eyes.

Mr. Tutt, opening the lower half of the escritoire,

took out two glasses with hollow stems, and, having placed these carefully upon the rug between the two chairs, excavated from the rear row a dusty bottle, the cork heavily wired and wrapped in scarlet tinfoil. Then he slowly lowered himself into the chair opposite Mr. Carman, which feat, owing to his own length and the nearness of his seat to the floor, gave him the appearance of a partially folded pocket knife, but enabled him to grasp the bottle firmly between his knees.

"Who's doin' the favor now?" inquired Mr. Carman significantly.

"Pop!" said the bottle. "I am!"

Mr. Tutt held it for an instant above the ashes as the contents creamed over the neck, and then carefully filled the glasses upon the rug.

"There are," he remarked sadly, "exactly five glasses of wine in that bottle. However, I am not particularly thirsty, and—there is another bottle."

"Here's luck!" said Mr. Carman.

"Here's misery, marital infelicity, chilblains, financial ruin, rheumatism, indigestion, sciatica, arteriosclerosis, and all the murrains, plagues, and evils known to ancient times and to modern man, upon one T. Otis Crabb!"

Mr. Tutt lifted his bubbling ruby glass, eyed it critically, and slowly emptied it.

"One!" he said, wiping his mouth with the back of his hand.

"Ah—one!" echoed Mr. Carman. "Tutt, I'll do you a favor every Saturday night if you press me."

Mr. Tutt reached to the humidor on the near-by table and tendered his guest a cigar, and while Carman was lighting it filled the two glasses again.

"Well," he remarked, "here's to the favor!"

"The favor!" nodded Carman.

"I suppose," said Mr. Tutt, "that being a railroad man you agree with Mr. Bumble that the law is an ass."

"I don't know the man, but he's certainly got the right idea," returned his guest.

"I'm up against a legal farce," went on the old lawyer. "I've got a judgment of fifty thousand dollars against a miserable swine that ran down and nearly killed a client of mine, and I can't make him pay a cent, although his wife has all kinds of money."

"Can't you arrest him for the debt?" asked Carman.

"I have! But he got a friend of his to go on his bond for the liberties of the jail. His wife put up the security and now he goes anywhere he wants."

"You mean if you put a man in jail for debt he don't have to stay there?"

"That is precisely what I mean. If a New York judgment debtor who has been arrested gives bond in the requisite amount and keeps within the boundaries of Manhattan Island he can disport himself freely from the Battery to the Harlem Canal, and from the Hudson to the East River, eating at Delmonico's and sleeping

at the Waldorf, spending his mornings in Central Park, his afternoons at the movies and his evenings at the theatre, and still technically be in prison, for he is within the jail limits as defined by law. And at the end of six months he's free for good and all!"

"That's a good thing to remember," affirmed the railroader thoughtfully.

"Also this," continued Mr. Tutt. "You might use it sometime. If the imprisoned debtor can induce his bondsman to leave the jurisdiction in his company and return at the same time that he does—or later—he can disregard the jail limits entirely and go to Atlantic City or anywhere else for a few days every week, just as my man is doing."

"You don't say! Is he now?" exclaimed Mr. Carman sympathetically.

"He is! But he takes his surety with him and brings him back on the same train, so that there is no way for me to begin an action on the bond until there is a good defense; namely, that the debtor has returned."

"What wise guy worked all that out?"

"Mr. Aaron T. Lefkovitsky."

"He's a great man. I'd like his telephone number and office address," said Mr. Carman. "Well, this is all very interesting, but what has it got to do with me?"

Mr. Tutt stroked his lean lantern jaw and gazed meditatively at the empty glasses.

"That remains to be seen," he murmured. "That remains to be seen. How about that other bottle?"

Mr. Carman instantly showed new signs of life

"Ah," he exclaimed, "who is this miserable wretch? Tell me all about him!"

VI

"Oh, boy!" exclaimed T. Otis Crabb, elongating himself deliciously upon the sands in front of the Traymore at Atlantic City in a snappy, sleeveless, white-and-green one-piece bathing suit. "This is certainly some jail!"

Mrs. T. Otis, also in snappy bath attire, which, it must be confessed, exposed her limbs to great disadvantage, glanced coyly at him from under her purple-and-vermilion sunshade.

"You'll come down again next week, dearie?"

"Right-o! Fozzy says he can leave town on Thursday and stay over until Tuesday. That right, Fozzy?"

"Surest thing you know!" replied his elegant associate, stretching in sympathy.

"Lefkovitsky's a very clever fellow," yawned T. Otis. "All samee he's shown me a way to beat him out of his bill if he tries to do me."

'I hope that he isn't too smart," said his lady. "I'd hate to lose fifty thou on a cripple."

"Bet your life the cripple will never see a cent of your money!" assured Fozzy. "Even I, with my subatomical

admixture of brains, am able to grasp the proposition that you can't serve papers on a man in the State of New York if he isn't there, and that, if the return of the dear departed to the jail limits before the papers are served is a good defense to an action, T. Otis and yours truly can ride up and down from town to Atlantic City all summer without anything to fear from that old geezer who tried the cases against you."

"Old Tutt's not much of a lawyer," remarked T. Otis, lighting a cigarette.

"He got the verdict," countered Fozzy.

"But not the money!" laughed Mrs. Crabb. "We've got that!"

"Any lawyer can get a verdict for the plaintiff in a damage suit," declared T. Otis. "But it takes a real one to collect a judgment."

"My idea of a real lawyer is Lefkovitsky," said Fozzy. "If I ever get into trouble I'm going to him. Think of his being able to cook up a way for you to spend most of the summer down here and yet be in jail all the time! Yet it's simple enough. Anybody might have thought of it. We go away together and we come back together, and your comin' back makes it useless to serve papers on me. Ha-ha! Bean work! Bean work!"

"Only," warned Mrs. Crabb, "you boys must be very careful to come back at the same time."

"Oh, yes, ma—my dear!" her husband assured her. "We've got all that dope down cold. We go together

and we return together, like Siamese Twins. In the words of the famous song by O. W. Holmes, 'Nothing shall sever our friendship ever!' "

"That's right, or it might cost me fifty thousand," smiled Mrs. Crabb.

Number 1112 is the snappy train, leaving Atlantic City at 2.40 on Monday afternoons, that snappy fellows like T. Otis take back to New York City—when they are in jail for debt. It is a flyer—leaves Manhattan Transfer on the Jersey side, where you change for lower New York and Brooklyn, at 5.24 and then ducks down through the double-barrelled tunnel under the Hudson and shoots into the lower level of the big station on Thirty-fourth Street at 5.40. When there is a big rush of homing jailbirds No. 1112 runs ten cars, and—through the tunnel—two engines, for the grade beneath the river silt is heavy; a long train, a very long train, indeed; nearly, if not quite, a full quarter mile.

Number 1112 was the train T. Otis and his friend Fozzy took that same afternoon, and as usual they beat it for the forward smoker with two other dashing fellows for their regular game of bridge. T. Otis had lost only sixty-eight dollars of his wife's money by the time they reached Manhattan Transfer, and the party were so engrossed in what they were doing that none of them noticed the strange little group of three who boarded the train just before it started across the devas-

tated regions beyond Jersey City preparatory to plunging beneath the river. They still had sixteen minutes to play, and T. Otis wanted to win back Lucretia's sixty-eight dollars if he could.

"Speed it up, boys!" directed Fozzy. "Gimme the pasteboards. It's my deal."

He dealt rapidly. Gaunt factories and piles of soft coal flicked by the windows. The porter turned on the lights.

"Sixteen minutes more!" said T. Otis as they picked up their hands. "I'll make it. Two on hearts."

At that precise instant a very elegantly dressed young gentleman touched him on the shoulder, almost as dashing a fellow as T. Otis himself, and bending over mysteriously whispered something out of the corner of his mouth.

"I'm going to play it alone," announced Fozzy.

"Good!" laughed T. Otis, with an equal air of mystery. "I'll be dummy the next couple of hands." He grinned expansively. "Lady wants to speak to me back there."

Thus like a lamb led to the slaughter did T. Otis trot after Bonnie Doon back even unto the uttermost car. For of all the words of tongue or pen there are none so irresistible to a dasher or a masher as "Say, there's a girl in the last car who wants to know if you're going to speak to her." And, be it remembered, there were three long days—and nights—until Thursday.

Thus, as No. 1112 dropped beneath the cellars of the western bank of the Hudson, T. Otis worked his way at Bonnie Doon's coat tails through the nine other cars, his heart beating with high expectancy.

Over in the terminal building, at his desk in Room 223, sat Mr. Joshua Carman, the general superintendent, obligated by his word of honor to do Mr. Tutt a favor. Mr. Carman represented the third, or "What-Then," side of the old lawyer's triangular problem, and without him this story would have remained unwritten. For no one else could have done what he, stifling his official conscience, was about to do for Mr. Tutt. Entombed like an Egyptian astrologer in the centre of a pyramid, he, nevertheless, had his finger on every train on the terminal system. What he said went, and what he stopped stopped.

"By the Lord," he muttered, "I wonder if any other fellow in my place ever had the nerve to do a thing like this before! All the same," he added to himself, "the rules say 'emergency,' and who's to be the judge of what an emergency is if I'm not?"

All the time he had his eyes on the clock.

"Five-twenty-four—she's just pulling out of the Transfer," he remarked with what in a prima donna would have been described as a slight tremolo. He reached nervously for a cigarette and lighted it.

"Five-twenty-six—twenty-seven—twenty-eight——"

His heart was really thumping, for he felt like a schoolboy about to pin something on the teacher's back. "Charlie," he shouted to a bald-headed youth, "get me Forty."

Charlie unhooked the receiver.

"Line's busy, chief," he replied.

Mr. Carman felt a curious prickly sensation steal up his arms and over his shoulders.

"Forty" is the train locomotive despatcher, the official who directly controls train movements and through whom orders are customarily given by the supervisor, or on occasion by the general superintendent.

Five-twenty-nine! Number 1112 was well down in the tunnel by now. He would have to give the order directly to the train director in the A Tower if he was to be in time to help Mr. Tutt. There wasn't a fraction of a minute to lose, either. Feverishly he grabbed the telephone.

"Give me A Tower," he ordered. "And hurry!"

Johnny McNaughton, up in the big signal-bridge Tower A, on the "Island Platform" at the Manhattan opening of the tunnel, was sitting, pipe in mouth, his eyes fixed on the board which, like an animated cartoon, shows the movement of every train by a tiny green light that creeps along and stops and creeps along again. Johnny was the man who actually controlled every signal, could start or stop or deflect any train upon the

system—the train director, the man at the switch—accountable to no one but the general superintendent, the supervisor, the despatcher—and God.

Evensong on a Monday afternoon is a busy moment for Johnny McNaughton, for trains are following one another both ways through the tunnel every few moments. The little green light that was 1112 moved to the spot that represented the Manhattan Transfer, stopped and started again.

Johnny knew her passing time was five-twenty-four, and that in another sixteen minutes the little green light would have slipped by all the tunnel signals on the diagram, and that he could look into the mouth of the east-bound tunnel and see her headlights as she came roaring through. Unconsciously he looked into it now—that round deep hole with the signal over its mouth—the signal repeated every thousand feet or so through the tunnel, by which he could control all trains. It showed red. That meant that the signals were set clear, green, against the trains coming toward him—toward the east—the terminal; set clear for Number 1112, now in the tunnel; and the little green light indicated that she was underneath the river—nearly halfway between New Jersey and New York—just passing Signal Number 904. Suddenly the telephone beside him shrilled.

"Hello, Johnny! This is Mr. Carman," came the voice of Carman. "Throw all tunnel signals against east-bound traffic, and hold the movement three min-

utes. I want to stop 1112 before she reaches Signal 903."

"Right!" snapped the towerman, grabbing his lever.

Coincidently the little green light on the diagram stopped between 904 and 903, exactly in the middle of the tunnel.

"Wonder what that's for!" commented Johnny.

That identical phrase issued but a second later from the grimy lips of Sam Burke, engine-driver of Number 1112, as, having slid by Signal 904, he saw 903 an eighth of a mile ahead turn from green to red. Curious how men's minds work in the same way!

"Wonder what that's for!" he ejaculated as he jammed on the brakes and brought his train to a standstill midway between the two signals.

"Hello!" remarked Algie to his partner in the smoker at the same moment. "Train's stopped! Gives us time for another hand!"

Before he could deal the cards a red-headed youth with a large assortment of freckles bobbed up unexpectedly at his elbow as if from beneath the train.

"Say, are you Mr. Fosdick?" inquired Willie Toothaker, the ubiquitous office boy of Tutt & Tutt, with his usual ingratiating smile.

"That's me, son!" nodded Algie. "What can I do for you?"

"Just let me serve you with these papers," answered Willie, suddenly slapping a package of documents upon

the dashing fellow's shoulder. "It's a summons and complaint in an action brought against you for fifty thousand dollars as surety on the bond of T. Otis Crabb."

Mr. Fosdick laughed rudely.

"No use, young feller-me-lad! You can't serve me when Crabb is already back in New York."

"But he ain't, young feller-me-lad!" grinned the irrepressible William. "See that signal—Number 903? Well, you're in New York all right, but he's still in New Jersey—back at the end of the train."

T. Otis, following hard on the heels of Bonnie Doon, had just threaded his way through the last Pullman, stumbling inconsiderately against the passengers who were engaged in putting on their wraps and closing their bags, in his eagerness to see the lady who had sent for him. But T. Otis never bothered about how much he inconvenienced other people.

"She's in that last chair on the left," floated over Bonnie's shoulder.

"I don't see her!" replied T. Otis excitedly, hardly aware that the train had suddenly come to a stop.

"She's got her back to you," explained Bonnie, stepping to one side. "Go on ahead."

T. Otis hurried on to the end of the car, and bending coquettishly over the back of the last chair found himself staring into the wrinkled face of old Mr. Tutt.

"How d'y'do?" remarked the lawyer.

"What sort of a game is this?" gasped T. Otis suddenly feeling very ill.

"Game, my dear sir?" murmured Mr. Tutt innocently. "Game? I don't understand—— Oh, now I remember you! You're the man who owes my client Barrington fifty thousand dollars, aren't you? Oh, yes, of course!"

T. Otis sank weakly on the arm of the adjacent seat.

"What a wonderful tunnel this is, isn't it?" rambled on Mr. Tutt. "Marvellous bit of engineering skill! Reaches all the way from New Jersey to New York. Now, if you'll just look out of the end window there you can see Signal 904. You and I are still in the State of New Jersey, while the forward half of the train is already in New York."

He glanced quizzically at the yellow features of the judgment debtor.

"By the way," he said, "haven't you been rather careless about violating your jail liberties? I feel quite sure that my process server has already served papers on your bondsman—in the State of New York."

T. Otis collapsed into the chair and pressed his fists to his temples.

"Look here," he gasped, "is that right?"

Mr. Tutt bowed punctiliously.

"Quite so," said he.

"And is this going to cost my wife fifty thousand dollars?"

"Beyond the shadow of a doubt!" Mr. Tutt assured him.

"That fool Lefkovitsky!" wailed T. Otis. "I wish I'd stayed in jail!"

"I'm glad you didn't," answered Mr. Tutt. "The Barringtons need the money."

"Well," muttered Crabb as the train started and he staggered to his feet, "I know one thing: I won't go back to Atlantic City! I'd rather stay in jail for the rest of my life!"

HOCUS-POCUS

Of these rulings all that can be said is that they belong rather to some system which decides controversies by mumbling magic formulas before a fetich.

—Wigmore on Evidence, Vol. III, Sec. 1933, p. 2,574.

"WILLIE!" called Mr. Tutt in stifled tones from the top of the stepladder inside the closet that served as a safe-deposit vault for the firm's papers, "Mrs. Grover's will has got to be found! Understand? It's here somewhere! Our reputation depends upon it. I remember putting it away perfectly. If necessary, I want you to go over every paper in the office!"

Willie, sitting upon the lower step of the ladder, fumbled vaguely in the tin box of papers in front of him.

"Sure, we'll find it!" he coughed through the dust. "Say, Mr. Tutt, do you mind if I soak off some of these old internal-revenue stamps? I bet these papers aren't any good to anybody!"

"Don't you dare lay your hand on one of 'em!" thundered Mr. Tutt from the clouds above. "But if you can find Mrs. Grover's will I'll give you twenty-five dollars!"

"Gee!" exclaimed Willie, burrowing frenziedly into the mountain of documents heaped upon the floor.

The trouble was—as may have been already gathered

—that Mrs. Caroline Grover, a wealthy client of Tutt & Tutt, had suddenly died, and her last will and testament, but recently drawn by the senior partner, could not be found. Never had such a thing occurred in the entire history of the firm. Not once in the half century that Mr. Tutt had been connected with the law had he lost a paper, either through his own fault or that of another. For, whatever their failings as a class may be, and however likely to lose their immortal souls, lawyers do not generally lose papers. And now, at this late date, Mr. Tutt had been guilty of that greatest of all the offenses—and they are legion—that a lawyer can commit: he had mislaid a will! Worst of all, by reason of its disappearance there was a possibility that one of the most charming young women in New York might suffer irreparable financial loss.

Yet he distinctly recalled having placed it in the will box—a large tin receptacle painted brown—only ten days before. Every other will was there except hers, and hers had been the last one to be put in! As he took each one out and laid it aside Mr. Tutt's apprehension and excitement rapidly grew. No, the confounded thing wasn't there! Again he went all over them and checked each one off against the list pasted upon the inside of the cover until there was a mark against each name except that of Caroline Grover, and the box was empty. Incredible! He threw the wills back helter-skelter and pawed them through again fever-

ishly—frantically. No, there was no use trying to deceive himself, it wasn't there!

He rang for Scraggs, Miss Wiggin, and Miss Sondheim and explained what had occurred, vainly seeking from them some clew to the missing document. None of them had seen it since its execution. Neither had Tutt—who shortly after arrived, and likewise ferreted through the will box without any result. Then both of them ransacked Mr. Tutt's old mahogany desk from top to bottom, rummaged through Tutt's desk, and finally emptied out all the drawers in the office—until the floors looked as if there had been a moderate-sized blizzard. No will! They moved the furniture, lifted the carpets, probed baskets full of papers which had stood undisturbed for years and which were covered with a pall of dust—all without avail. Agonizedly they looked at one another. Alack! Tutt & Tutt were ruined men!

The Grover files—among the first to be overhauled—yielded nothing. The one marked "Caroline Grover—Private" contained a file of the letters that had passed between her and Mr. Tutt relating to her affairs and the circumstances leading up to the making of the will, but the will itself was not there—nothing but the memorandum in Miss Caroline's handwriting of her desires, indorsed, "Memo of my will, June 10, 1919," which she had given to Mr. Tutt in order that he could draft the instrument in accordance with its terms.

"That's something anyway!" ejaculated Tutt as his partner handed it to him. "If we can't find the will we may be able to prove by this what it contained."

Mr. Tutt shook his head dubiously.

"I don't believe the court would admit it in evidence. Don't you remember, I had to argue a case in the Appellate Division the day Mrs. Grover signed her will, so that I did not act as an attesting witness? Very likely the surrogate would hold that even if the will were lost I could not testify to what Mrs. Grover had asked me to put in it or produce her memorandum, on the ground that they were all confidential communications between attorney and client and so 'privileged.'"

"But that would be rot!" protested Tutt. "Certainly, if she asked you to draw a will for her she'd want you to testify to its contents if it were lost. It's no 'privilege' to have your wishes defeated!"

"Well, look up the law for yourself," rejoined Mr. Tutt dryly. "I may be wrong. But even if I'm not it won't be the first time in my experience that a law passed for the protection of a man has been invoked to ruin him; or, to use a celebrated simile, that what was intended to be a shield has been converted into a sword."

Meantime, in the house on Fifty-fourth Street, Lucy Aymar, the adopted daughter of Caroline Grover, sat stunned at the loss of her protector, friend, and benefactor. Mrs. Grover had died suddenly, and yet, as

the girl knew, she must have had a premonition that her end was not far off, for only the week before she had called her into the library and had said with a smile, trying to give a matter-of-fact air to the announcement: "I have just made my will, dear, and I have left everything to you. I tell you this so that you need not worry about the future. My brothers and their families are quite well enough off already."

Lucy was perfectly familiar with the miserable story of how Mrs. Grover's two brothers, both of whom had married rich women, had during the period of her poverty given her the cold shoulder. Then, as is quite usual, the totally unexpected had happened. Her husband's inconspicuous invention, on which he had worked for years, suddenly became, through the development of the gas engine, of immense value. From living in a suburb and doing her own work Mrs. Grover found herself the mistress of a luxurious ménage, of motors and yachts, and free to go and do as she chose. As the couple had no children they had adopted—though not with the formality of legal process—the little daughter of an old friend, Jaspar Aymar—and brought her up as their own.

Then, too late, the two brothers and their wives had sought to reconcile their differences with the erstwhile shabby inventor, who, generous to all the rest of the world, found it impossible to forgive the neglect with which the would-be sycophants had treated him and his

wife. Coldly he declined their hospitality and bade them seek other friends. Mrs. Grover never saw her brothers again during her life, yet now they were both downstairs asking to see Lucy Aymar. Why? She did not need to be told. They were not there moved by any desire to look for the last time upon the features of her whom they had once disregarded. They had not come to extend their condolences—save perhaps perfunctorily—or to offer their services. They were there to ascertain what disposition Mrs. Grover had made of the property inherited from her husband.

"I won't see them!" declared the girl, feeling their intrusion upon her grief a personal affront.

The maid retired, but presently returned.

"They say, miss, it is absolutely necessary to know whether Mrs. Grover left a will and, if so, in whose possession it is."

Miss Aymar bit her lips.

"Tell them that Mrs. Grover made a will and that it is in the custody of her lawyer, Mr. Ephraim Tutt."

Great as was her own distress of mind over her loss, it was no greater than that of Mr. Tutt over the disappearance of Mrs. Grover's will. He was, in fact, going through the severest mental torture of his legal life, and no lawyer will be surprised at this when it is stated that, apart from the memo in Mrs. Grover's handwriting, there was no copy of the lost document, and that if the document could not be found its existence would neces-

sarily have to be proved under the extremely technical requirements of the New York statutes. Like many another well-intentioned person, Mrs. Grover had postponed making her will until almost too late. It is a common failing of human nature to believe that though others may be taken suddenly away we personally shall have ample warning, with plenty of time to arrange our various earthly affairs. So good Mrs. Grover, whose single ambition was that Lucy should inherit her estate, had calmly neglected what was undoubtedly the most important act of her life until a stabbing pain in her side had warned her that, unless she took steps to prevent it, her undeserving brothers would fall heirs by devolution of law to that which she desired her adopted child to have.

Accordingly, she had sent for Mr. Tutt and, having discussed her affairs with him, had mailed him the afterward famous memo in which, having provided for a few comparatively trifling legacies, she gave all her residuary estate to Lucy, making her executrix.

It was the simplest possible testamentary declaration conceivable, and Mr. Tutt, having in Scraggs an experienced scrivener, had handed him the memo and instructed him to engross a will for Mrs. Grover following the usual office form.

Unfortunately, upon the day selected for the signing of the instrument in Mrs. Grover's library Mr. Tutt had been obliged to appear in court, and the will was

actually executed under the direction of the junior partner, the witnesses being three friends whom Mrs. Grover had invited to act for her in that capacity, and to one of whom she had read the will aloud the preceding evening.

Mr. Tutt had climbed down from the ladder in the vault and was standing in his office, waist high in a lake of papers, when Willie announced that Mr. Updycke was waiting outside. Assuming that the caller was an old college chum named Updycke, the lawyer bade Willie bring him in, and thereupon found himself unexpectedly confronted by an utter stranger, garbed in black, who it immediately developed was one of Mrs. Grover's brothers and hence one of her two heirs-at-law and next-of-kin.

"I am a brother of the late Caroline Grover," he said rather sharply. "I understand that my sister made a will and that it was left in your custody. Am I correctly informed?"

"Yes—I—that is to say——" stammered Mr. Tutt, his ordinary quickness of wit deserting him. "But——"

The heir-at-law fixed him with a penetrating eye.

"Ah!" he remarked. "But——"

"Yes," answered the lawyer, recovering himself, "I drew Mrs. Grover's will and she left it in my custody."

The visitor glanced significantly about the disordered office and gave a short laugh.

"And you've lost it, eh?"

Mr. Tutt glared at him, speechless.

"Well!" said Mr. Updycke after a moment. "I've found out what I wanted to know. Good day!"

The morning after Mrs. Grover's funeral Miss Aymar, sitting in the big leather chair beside the desk in Mr. Tutt's office, learned for the first time of her unfortunate predicament. The old lawyer had made an abject and what was in truth a most piteous confession, and now he waited humbly for the storm of censure which he expected to fall upon him. But the storm did not break. Miss Aymar, whether from kindness, ignorance, or stupidity, did not seem to be greatly disturbed. She looked so adorable in her black gown that he felt more wretched than ever.

"It's too bad that you have been put to so much trouble!" she said, smiling at him. "I do hope that you haven't worried over it. No doubt we shall get along perfectly well without it."

"I only wish I felt a like confidence!" he replied, a little relieved. She was a charming child! He would have given all he possessed for a daughter like her.

"But why not?" she answered. "I don't see how there can possibly be any trouble about it. Mother Grover consulted you about her will, and not only told you exactly what to put in it, but gave you a memorandum in her own handwriting. Then your clerk drew it up and sent it to her, she read it aloud to Miss Block,

and finally signed it under your partner's direction and in the presence of three witnesses. Besides, she told me all about it. What more could the law require?"

"You'll have to ask the law!" answered Mr. Tutt desperately. "Nobody knows what the law is, or is going to require, until he has to find out. There isn't any proposition too ridiculous to be amply supported by authority—somewhere."

"But where can any doubt arise? The mere loss of the paper when you have what is practically a copy of it, and when there are people who know exactly what it contained, certainly can't deprive me of my rights!"

She gazed at him so incredulously, so pathetically, that Mr. Tutt took a high resolve that only over his dead body should she be deprived of them.

"'We have strict statutes, and most biting laws,'" he quoted. "It's a pretty serious matter to lose a will. The whole situation is covered by special and very stringent provisions as to the proof required to establish the contents."

"But we have a copy or at least a memorandum!"

"True, but there are difficulties connected with putting it in evidence." He rubbed his chin meditatively. "It all depends on the judge—and on the lawyers on the other side."

'What other side?" she demanded quickly with a flash of suspicion.

"The Updycke side—the side of the heirs-at-law and

next-of-kin, who will get all Mrs. Grover's property if she is declared intestate."

"You don't mean that they would try to get the property when they knew that she didn't want them to have it!"

Mr. Tutt laughed grimly.

"They've started in already!" he informed her. "They commenced a proceeding this morning to have Mrs. Grover declared intestate and to have themselves appointed the temporary administrators of her property."

"But I told them she had made a will!" she exclaimed. "How despicable! No wonder she didn't have anything to do with them!"

To Mr. Tutt's intense relief her indignation was vented upon the unscrupulous Updyckes instead of turning against him. Yet after all he felt that he was the more guilty party. He was responsible for the whole wretched business, for the possible loss of Miss Aymar's fortune. All he could do was to tell her the exact truth.

"It isn't always fair," he said gently, "to judge people harshly because they let the law decide what must be done in certain cases. They quite naturally take the position that the mere fact that you, an interested party, and I, your attorney, say that Mrs. Grover made a will in your favor isn't conclusive. It's up to us to prove it. We can hardly expect them to take our word for it."

Miss Lucy wrinkled her low brows.

"No, but the judge can!" she retorted.

"Provided he admits our testimony," qualified Mr. Tutt.

"Well, why shouldn't he?"

The lawyer took a sheet of typewritten paper from his pocket and handed it to her.

"Under Section 1865 of our Code of Civil Procedure, in an action to establish a lost will," said he, "you are not entitled to judgment unless first, the will was in existence at the time of the testator's death; and second, to quote the words of the statute, 'its provisions are clearly and distinctly proved by at least two credible witnesses, a correct copy or draft being equivalent to one witness.'"

Miss Lucy's face brightened.

"Why, then," she declared, "everything is all right! We have a draft—that's the same as one witness—and we've got Miss Block—that's the other."

Mr. Tutt shook his head in deprecation of her enthusiasm.

"Unfortunately," he declared, "we have another statute, which the courts interpret very strictly. It is the one relating to confidential communications between an attorney and client, and reads: 'An attorney or counsellor at law shall not be allowed to disclose a communication made by his client to him, or his advice given thereon, in the course of his professional employment;

nor shall any clerk, stenographer or other person employed by such attorney or counsellor be allowed to disclose any such communication or advice given thereon.' The statute then goes on to say that this applies 'to any examination of a person as a witness unless the provisions thereof are expressly waived upon the trial or examination by the . . . client.' This, as you see, is a very sweeping law. The only exception made to it is in the case of an attorney who has acted as a subscribing witness to a will. There the law presumes that by making him a witness, who must perforce testify to be of any use as such, the client intended to unseal his lips."

"But no honest person would invoke any such law to defeat the perfectly obvious intention of one of his relatives!" she protested.

Mr. Tutt pursed his lips.

"The obvious intention of the testator, as you call it, is the very point in issue. Who is to say what it was? The law provides that the question shall be determined by certain general rules and that a duly appointed judge shall act as umpire. Have we really any right to complain because our adversaries insist that the game be played to a finish according to the legal code?"

"Well," answered Miss Lucy earnestly, "whatever the law may be, it seems to me that no honest person should invoke it to accomplish what he personally thinks to be a wrong or a suppression of the truth."

Mr. Tutt smiled approvingly at her.

"Quite so," he agreed heartily. "But you are talking now about honor, not about law—an entirely different thing."

"But what shall we do?" she asked. "Surely I don't have to sit supinely and let the Updyckes turn me out into the street!"

'Do!" he answered. "Do? What can we do but hope for the best? I have already drawn the petition in a proceeding to probate the lost will of Mrs. Grover, and have it here for you to sign. The two applications —ours for your appointment as executrix, and the Updyckes' for the appointment of an administrator—will be heard together."

"I can't believe the law is as silly as you say," she said cheerfully; "but, even if it is, I don't worry the least little bit with you for my attorney. Why, I'm sure you can make it so plain to the judge that he will do anything you ask! I would!"

She got up and held out her hand trustfully.

"Don't think anything more about it! You didn't try to lose the old will. And very likely it will turn up again anyway," she added.

He took her hand in his and patted it.

"I wish all my clients were like you!" he said earnestly. "I'll do my best. And I'll say this much—that it's an awful fool law that hasn't some way round it!"

It does not appear from Holy Writ that Solomon

was a learned man, but merely that he was a wise one. Surrogates are apt to be learned men, but learned judges who are not also wise are inclined to revel in technicalities, and to become so logical that they overlook the spirit of the law in their strict application of its letter, and thus tend to bring it into ridicule. No system can afford to be so rigid that it breaks. The efficiency of the jury system lies in its elasticity. The successful judge is he who is no less a man because he is a judge. In a word, justice must not be so blind as to overlook the patent fact that human laws must be administered with a certain discretion. Otherwise—but Mr. Tutt was not really a Bolshevik!

Surrogate Pettingill, before whom the Grover case was to be tried, was celebrated for his exactitude of mind. Logic was his passion. In the application of a principle he was less flexible than the Flatiron Building, which is said to owe its permanence to the fact that it sways slightly in the wind. Does not all nature—human or otherwise—survive by virtue of the doctrine of give and take? Be that as it may, it was with a feeling akin to dismay that Tutt & Tutt found themselves confronted upon the morning of the trial by the learned Mr. Toddleham, attorney for the heirs-at-law and next-of-kin, an old crony of Judge Pettingill and a lawyer familiar with every technicality of the rules and practices of the Surrogate's Court.

But the senior partner gave no sign of anxiety. With

the urbanity of a Chesterfield—though certainly not, as Mr. Choate once said of another lawyer, with the suburbanity of a West-Chesterfield—Mr. Tutt rose to establish the lost will and testament of Caroline Grover, deceased. Miss Block, who had witnessed the will and to whom Mrs. Grover had read its entire contents, the preceding evening, was naturally his first witness. She was a palpably honest old lady who had nothing to gain by her testimony, and she swore positively that the testatrix had left all her property to Miss Aymar and designated her as executrix as well. The ancient Toddleham made no impression upon her by cross-examination and Surrogate Pettingill waved her from the stand with a courtly bow. Score one for Tutt & Tutt.

The two other witnesses to the execution of the instrument then gave their testimony. Although they were not able to testify to its contents, they swore that Mrs. Grover had stated that the document which she requested them to sign was her will, and that they had affixed their signatures immediately after that of Miss Block. Upon their uncontradicted evidence Mr. Tutt thereupon offered the will for probate.

The surrogate frowned.

"The code requires that the contents of the will be clearly proved by at least two witnesses," said he.

"I have offered three," declared Mr. Tutt.

"Only one as to the contents," retorted the surrogate.

"But, Your Honor, if Miss Block identified the in-

strument signed as the one read to her by the testatrix and the others signed the same paper, there are three witnesses."

Surrogate Pettingill looked bored.

"The law is clear," he announced. "At least two witnesses are necessary to prove the contents—not the mere identity—of a paper. Besides, Miss Block cannot swear that the document Mrs. Grover read to her the evening before its execution was in fact the instrument which she actually witnessed. How could she? She assumes that it was, but she cannot know it for a fact!"

In the face of such pettifogging Mr. Tutt was stricken dumb. Was it possible that any sane human being could so stultify common sense by reason? However, there he was! He caught his breath and started in again.

"But a draft—or copy—is equivalent to one witness."

"Precisely."

"Well, there is a draft."

The surrogate nodded. But first Mr. Tutt had another perfectly good witness to the contents of the will —Miss Aymar.

Even the surrogate, as she rose and came forward so gracefully, yet so diffidently, toward the bench, forgot momentarily that he was a surrogate in the unexpected discovery that he was a man.

"Ah!" he exclaimed gallantly, attempting to put her at her ease. "Take your time, Miss Aymar. There is

nothing to be excited about. Are you quite comfortable? You do not mind the draft from that window?" Then embarrassed, he recalled the fact that he was a judge. "Um!" he growled. "You may proceed, sir!"

"Miss Aymar," began Mr. Tutt, "did Mrs. Grover tell you anything about having made a will?"

"I object!" exclaimed Mr. Toddleham, popping up like a jack-in-the-box. "The witness is an interested party under Section 829 of the Code, and hence is precluded from testifying."

"Quite so!" snapped the surrogate. "Sustained."

"But she can testify to the contents of the will!" argued Mr. Tutt. "We need another witness."

"I have ruled," said the surrogate severely.

"Well," remarked Mr. Tutt, "I will save an exception. Mr. Samuel Tutt—please take the stand."

Tutt, arrayed as befitted the occasion, hopped to the chair in his usual sprightly manner and was sworn.

"Mr. Tutt," said Mr. Tutt, "did you assist me in drawing up and revising the last will and testament of Caroline Grover?"

Again Mr. Toddleham interposed an objection. The witness' testimony was, he pointed out, obviously within the prohibition of the statute which precluded an attorney at law from disclosing any communication made between him and his client in the course of his professional employment. The drawing of a will was clearly such a communication and had been so held in

Loder vs. Whelpley, 111 New York Reports. 239, at page 248.

"That is the law—unless Mr. Tutt was also an attesting witness. Were you?"

"No, sir," admitted Tutt.

"Then this testimony cannot be received!" ruled the surrogate. "The point is perfectly well settled."

Ephraim Tutt shivered internally. He had received the body blow which he had anticipated all along, though he betrayed no sign of it. This was not a propitious moment for his supreme effort. So he took Tutt out of the line and put in Scraggs, freshly barbered and otherwise in fighting trim. Since the alcoholic scrivener had actually drawn the will that Mrs. Grover had signed, and had done so from a memorandum in that lady's own handwriting given to him by Mr. Tutt, he if anybody knew what was in it! But when he was asked to state what its contents were Mr. Toddleham objected again. The will drawn up by the witness, he argued, was not shown to be connected in any way with the paper signed by the testatrix. Scraggs had not delivered it to Mrs. Grover, but on the contrary had turned it over to Mr. Tutt, who had mailed it to her. She might or might not have received it. There was no way to establish that Scraggs' will was the will which, in fact, she signed.

"But," cried Mr. Tutt impatiently, "the contents show them to be the same."

"That would be putting the cart before the horse, Mr. Tutt!" returned the surrogate with animation. "You are trying to prove the contents, are you not? Yes! Very well. To do so you must prove that the paper signed by Mrs. Grover was the identical paper drawn up by Mr. Scraggs. Until then he cannot possibly tell us what the paper contained, for the two documents have not been legally identified as one and the same. The last may have been utterly different from the first."

"I propose to show that it was not, Your Honor, by proving that the disposition of the property in the two papers was identical."

"But, my dear sir, that does not prove that the two papers referred to were identical," retorted the surrogate delightedly, devouring the quibble with glee. "They may have been entirely different documents, even if their contents were exactly the same!"

"Oh!" returned Mr. Tutt. "If that is the point—and I agree entirely with Your Honor's reasoning—then Mr. Scraggs' testimony should be admitted as a declaration of intention on the part of the testatrix."

"In that case I object to it as coming within the prohibition of Section 829 against the disclosure of confidential communications between attorney and client, Mr. Scraggs standing in *pari passu* with his employer," interpolated Mr. Toddleham.

"Most clearly so!" ejaculated the surrogate. "That is quite obvious! Objection? Do I hear an objection? Sustained!"

If Mr. Tutt had not been so depressed at the predicament in which he found himself he would have greatly enjoyed this extraordinary exhibition of judicial agility. As it was he leaned over to Tutt and whispered in his ear: "Did you ever see such a pair of dodos? I'd like to knock their two noddles together!"

"Most certainly so!" returned Tutt solemnly. "That is quite obvious!"

"I most respectfully save an exception," said Mr. Tutt, resuming his former position. "Luckily I have a draft of the will, which will satisfy the requirements of the code, as being equivalent to another witness. I will ask to be sworn."

He stepped forward, took his seat in the witness chair and raised his right hand, while Surrogate Pettingill glanced significantly at Counselor Toddleham and smacked his lips. This was a choice morsel indeed! He had Mr. Tutt running round like a rat in a pit, and he was successfully blocking his escape at every turn. To him it was an exciting game. The giant of justice was bound and helpless by the spider's web of technicality. There was Mrs. Grover's will—everybody knew it was her will!—and every time Mr. Tutt attempted to probate it the surrogate pushed him back. And now the old lawyer was about to make his final

attempt. The draft of the will in Mrs. Grover's handwriting was in his breast pocket.

Smiling pleasantly at Pettingill he said: "With Your Honor's permission I will examine myself. Question: 'Have you in your possession a paper delivered to you by Caroline Grover as a draft of her proposed will?'"

"Object!" shouted Mr. Toddleham.

"Sustained!" chortled the surrogate. "No, no, Mr. Tutt!" It was tantamount to his saying: "Naughty! Naughty!"

"Oh, Lord!" muttered Tutt to himself. "Isn't it sickening!"

"But, Your Honor," protested Mr. Tutt, "what better proof could you possibly want than a copy of the will in Mrs. Grover's own handwriting?"

"I don't want any proof," grinned Pettingill. "You're trying to prove a lost will. I merely hold that you can't prove it that way."

Mr. Toddleham nodded in a highly commendatory manner.

"Precisely!" he enunciated.

Mr. Tutt's weather-beaten face grew dark.

"If Your Honor please," he said with an effort at patience, "the rules of evidence are for the purpose of getting at the truth—not obscuring it. Though it is true that under the law the communications passing between a lawyer and his client are forbidden to be disclosed by the attorney, this is for the protection of the

client and is his privilege, which under certain circumstances he can waive if he chooses. Is there any doubt but that Mrs. Grover would waive it were she alive?"

"We cannot speculate upon what the dead would do if they were not dead," replied the surrogate sententiously. "It is no longer possible for Mrs. Grover to waive the privilege of the statute by which your lips are sealed."

"Yet," argued Mr. Tutt, "as Professor Wigmore points out, though 'it can hardly be doubted that the execution and especially the contents'—of a will—'are impliedly desired by the client to be kept secret during his lifetime, it is plain that this confidence is intended to be temporary only, and that after the testator's death the attorney should be at liberty to disclose all that affects the execution and tenor of the will.

" 'Otherwise what is intended for the client's protection may become the means of defeating his wishes.'"

"That, however, is not the law of this State," said Pettingill coldly.

"Oh, no!" chimed in Mr. Toddleham. "See Fayerweather vs. Ritch, 90 Fed., 13; Butler vs. Fayerweather, 91 Fed., 458; and Matter of Cunnion, 201 N. Y., 123—all directly in point!"

"Exactly!" agreed the surrogate with gusto. "I am quite familiar with all those cases."

"Then," cried Mr. Tutt angrily, "what you call a

privilege is, in fact, a curse, and the law becomes ridiculous!"

The surrogate stiffened.

"That will do, Mr. Tutt! I do not care to hear any more comments from you of that nature."

The old lawyer, confronted by an impassable barrier of technically sound and undeniably logical deductions, and so prevented from introducing positive and irrefutable proof of the justice of his cause, controlled himself with difficulty.

'I have in my pocket," he said in a low voice, "the paper to which I refer, and I offer it in evidence."

"Excluded," gloated the surrogate, "on the ground that, as it was received by you in your confidential capacity as her attorney and produced by you as such, it is a privileged communication from Mrs. Grover and cannot be disclosed."

"I except," murmured Mr. Tutt. "In that case I ask that you grant me an adjournment until to-morrow morning."

The surrogate smiled triumphantly and glanced at Mr. Toddleham.

"That is reasonable," he admitted. "Adjourn court until to-morrow morning at ten o'clock."

"Did you ever hear such utter rot!" wailed Tutt on their return to the office. "As for that old pettifogger —I'd like to crack his brain!"

"It's not brain, but bran!" cried the senior partner. "I have never known anything so utterly absurd. Here we have a crowd of reputable witnesses who know exactly what was in Mrs. Grover's will—one whom she consulted about it, another who drew it, a third to whom she read it, and two whom she told what it contained—besides a draft in her own handwriting of exactly what she wanted done—and yet for one reason or another the judge excludes practically every bit of evidence in the case. It's not only absurd, it's preposterous! It isn't equitable—it's criminal! The trouble is we're law-ridden—at least as far as evidence is concerned! Give me the Continental system every time, and let the witnesses tell everything they know!"

"Except in criminal cases!" qualified Tutt, raising one eyebrow.

"Yes—except in criminal cases!" agreed Mr. Tutt hastily. "It almost makes me want to turn Bolshevik!"

"You're quite Bolshevik enough already!" remarked Miss Wiggin as she appeared in the doorway, preceding Willie with the tea things. "You know perfectly well that though the law may work hardship in individual cases it is the crystallized wisdom of human experience. And we should respect it as such. The law protecting confidential communications is one of the most salutary that we have. You have only recently claimed that it ought to be extended rather than restricted—in the O'Connell case, you remember, where the defendant

confessed to Miss Althea Beekman that he committed murder and she refused to testify."*

"Quite so," answered Mr. Tutt helping himself to a piece of toast. "What I am raving about is the technical and iniquitous way in which perfectly good laws are applied. Here is a case where a testatrix's wishes are going to be absolutely defeated because the court holds that I cannot put in evidence the draft of Mrs. Grover's will which she left in my possession."

"That seems hard!" acquiesced Miss Wiggin as she rinsed a cup for him with hot water. "What are you going to do about it?"

"I don't see what we can do about it," he groaned, "except to take an appeal."

"There are times," said Miss Wiggin soothingly, "when it must be very difficult for judges and lawyers to remain faithful to the law as it stands. And yet one thing is absolutely sure——" She paused and lifted the teapot preparatory to filling the cups.

"Yes—O wise Minerva?" said Tutt with a touch of condescension.

"And that is that our first duty is to obey the law whatever it is—no matter what the result may be. If we lawyers do not respect the law, who will? Besides, we have taken an oath to do so."

"Nobody could respect the New York Code of Civil Procedure!" declared Tutt.

*See "By Advice of Counsel," p. 1.

"Perhaps one could if he knew what was in it!" she retorted tartly.

Tutt grinned good-naturedly.

"I don't pretend to—never did—if that's what you mean!"

"Here's your tea," she said, passing it to him. "Even if the enforcement of a law is to result in what seems to be a wrong, to connive at an infraction or evasion of it is a greater one—the greatest that a lawyer can commit, for it attacks the very foundation of society."

"Quite right—as usual!" admitted Mr. Tutt as he drained his cup and fumbled in the box for a stogy.

"Well, you can run that sort of thing into the ground!" asserted Tutt, wiping his mouth. "There's no use in being overconscientious. You've got to have common sense about everything."

"Common sense or—common honesty?" she shot over her shoulder as she went back to work.

Tutt flushed.

"I guess I'm as honest as the average," he growled. "But I won't stand seeing people robbed—even by the law that Miss Wiggin seems to think so perfect."

"How are you going to help yourself?" inquired Mr. Tutt. "Take our present case—suppose one were willing to strain a point?"

Tutt whistled a bar or two thoughtfully.

"I don't say I'd do anything," he replied at length,

"but I might—sort of—let things take care of themselves."

"How do you mean?"

Mr. Tutt gazed at his partner searchingly.

"Look here, Mr. Tutt," said Tutt. "This whole case apparently turns upon the comparatively trifling fact that when she died the draft of Mrs. Grover's will was in your possession instead of hers."

"Well?"

"Why shouldn't it—still—apparently—be found among her effects?"

Mr. Tutt straightened.

"Do you suggest——" he began sternly

"No, no!" interrupted Tutt. "I don't suggest anything at all. I merely say that if this infernal paper should, even now, turn up in Mrs. Grover's desk I don't imagine anybody would feel obliged—from this office—to suggest that it was a confidential communication prepared for the use of her attorney."

Mr. Tutt was listening attentively—his mind in a turmoil. It was monstrous—and yet it was a fascinating idea!

"No," he agreed slowly, "I wouldn't go out of my way to do so."

"And I don't suppose you'd inquire too closely how it might have got there either?" went on Tutt shrewdly.

"No-o-o," acknowledged Mr. Tutt.

"Well, then! Just keep your hands off and leave

things to me a minute," supplicated Tutt. "You can do as you like afterward, but give Fate a chance!" And as Mr. Tutt, like a bird charmed by Satan in the form of a serpent, offered no tangible opposition, Tutt pressed the button that summoned Willie, and as the latter entered for the tea things struck a Napoleonic pose and exclaimed in distinct, if pathetic, tones:

"I agree with you entirely, Mr. Tutt! It is indeed unfortunate that the mere fact that this paper"—he took it from his senior's unresisting hand and tossed it on the desk in plain view of Willie—"was not in Mrs. Grover's desk at the time of her death, but happened by merest chance to be in this office, may lose us our case! What a shame that it was not found among her effects—in her house! Why did we not have foresight enough to send it back to her? What a godsend it would be to poor Miss Lucy Aymar if it, or another exactly like it, could even now be found in Mrs. Grover's desk or bureau! Yes," he repeated with slow significance, "what an infinite blessing it would have been if this paper had been discovered lying in a drawer of Mrs. Grover's desk!"

He paused sententiously. Then he apparently awakened to Willie's presence for the first time.

"Oh! You there, Willie?" said he. "Er—what was it we wanted, Mr. Tutt?"

"I haven't the remotest idea!" answered his partner as if in a dream.

"Whatever it was," said Tutt, "it's entirely slipped my mind!"

"Perhaps it was the tea things," hazarded Mr. Tutt shamelessly.

Then he and Tutt ostentatiously rose and peered through the window with their backs to Willie. A moment later, when they turned round, Willie was gone. So was the draft of Mrs. Grover's will.

It is the business of the recording angel and not mine—of which I am very glad—to determine just how outrageous Mr. Tutt's conduct was and what should be done with him in the hereafter. No one—least of all he himself—will attempt to deny his joint moral responsibility for Willie's subsequent acts.

"I'm all in!" he said, running his hands through his thin gray locks. "I don't know how I stand on this business. I've got to think it over. I don't like it, and yet—— I'm going up to the club and take a Turkish bath and—trust in the Lord!"

"And I," remarked Tutt, "am going to take one last look round this office for that damned old will!"

Those readers who happen to recall the circumstances surrounding the historic case of Toggery Bill* and how, in connection therewith, Willie had been rescued from the horrors of a juvenile reformatory by Mr. Tutt, will not fail to appreciate that what Tutt had just essayed was not exactly a shot in the dark. "*Qui facit per alium*,

*See "Tutt & Mr. Tutt."

facit per se." Willie was indubitably Mr. Tutt's slave. No question of morals entered into the situation—so far as he was concerned. Whatever his master wanted, whatever would benefit or assist him in his profession —that was good. Slowly, as he washed up the tea things, his mind proceeded to visualize the nature of that assistance and the course, step by step, necessary to achieve it. Then, having put everything carefully away, he picked up his hat and silently stole out of the office and hurried to the subway. Fifteen minutes later, his being permeated by the delicious knowledge that he was about to do a favor to his benefactor, confer a blessing upon a beautiful young lady and at the same time outwit the law—for which he had a deep-rooted antipathy—he approached the Grover mansion whistling, surveyed it with the practiced eye of a born housebreaker and pressed the bell.

He was prepared to go any length to put that draft will where it would do most good—even if he had to cram it down Surrogate Pettingill's wizened gullet. The trim maid who answered the bell laconically informed him that Miss Aymar had not yet returned home and Willie had only just time to back up against the edge of the door and press the catch, which left the handle free to turn upon the outside, before she closed it. It was long after four. Miss Aymar would soon be in. He walked the length of the block, keeping an eye on the house meanwhile, and having given the maid

plenty of time to get below-stairs he slipped back up the steps again and stealthily opened the door. The lights had not been turned on and the hallway in which he found himself was almost dark.

It did not take him long to find the library, for at the end of the passage he saw the gleam of gilt upon rows of books. There was the desk—right in the bow window looking into the side area. On the mantel a heavy wheezing marble clock coughed five times as Willie lifted the desk top, and, selecting a small drawer upon the left-hand side, placed the draft carefully within it.

There had been a period in Mr. Tutt's career when the ethical aspect of Tutt's conduct would not have particularly worried him; but that was before the advent of Miss Wiggin, who undeniably had exerted a strong counter influence to that of the junior partner. In the old days he had been prone to fall in with Tutt's clever and sometimes rather shady schemes, overlooking their questionability in his delight at their ingenuity and the element of risk involved in their execution, but the clear moral vision of their managing clerk and her uncompromising attitude toward anything but the highest standards had gradually come to predominate in the office, and if Mr. Tutt ever played too close to the line he carefully did so without her knowledge.

Now as Ephraim Tutt sat before his sea-coal fire after his Turkish bath, smoking his stogy and taking an occasional nip of brandy and water from the kettle upon the hob, he was fully conscious that what he had participated in doing would have called down the severest censure from Miss Wiggin, yet—— He smiled inscrutably into the glowing coals. That was a clever thought of Tutt's. He wondered if Willie would. There was nothing wrong in putting the paper back in the house —for it belonged to Mrs. Grover! Not a thing!

There could be no adverse criticism unless the paper should be found and produced, and it would not be found unless, first, Willie should place it safely among Mrs. Grover's effects; second, he, Mr. Tutt, should suggest a search; and, third, the paper having been thus discovered, he should produce it in court and offer it in evidence. It might be that none of these things would occur. Willie mightn't have taken the paper at all. It might still be in the office. It would be an outrage if Miss Aymar should lose a million dollars just because a paper happened to be lying in one place rather than another! Nobody would hesitate in a case like that to take a chance, when not to do so would result in a hideous miscarriage of justice. On the other hand, argue as he would, he could not help feeling Miss Wiggin's sternly disapproving eye upon him. Mr. Tutt was genuinely troubled and unhappy. Down below the bell tinkled and he heard Mandy, his faithful colored maid of all

work, going to the door. Then there were voices—he recognized Miss Aymar's. Good!

"Come right up!" he called cheerily, going to the head of the stairs.

"Excuse my interrupting you in the evening, but I had to leave court early, you know, and I wanted to find out how things went after I left," she explained.

World-worn old Ephraim Tutt, sad, childless, and lonely, held out his withered arms to radiant youth. How charming her lithe, almost boyish figure, how lovely the smile on her flushed cheeks, how brilliant the light in her brown eyes! To hell with ethics!

"Why, my dear!" he answered, pushing a chair toward the fire. "The case—is—I hope—going—very well!"

It was not later than eight o'clock the next morning that Mr. Tutt, after a rather restless night, called Mrs. Bartlett, Miss Aymar's housekeeper, upon the telephone.

"I would like to have you make another search of Mrs. Grover's desk," he said, "for the purpose of seeing whether, by any possibility, any papers—such as notes for making a will—have been overlooked. If you find anything kindly let me know."

Mr. Tutt did not spring his surprise at the opening of court, for he did not wish to have it appear as a sur-

prise. So he interrogated various other witnesses as to comparatively trifling matters, who did not help the case at all, but who created an impression of activity, and then summoned Mrs. Bartlett to the stand. She was an impressive-looking lady and she gave her testimony with a positiveness and wealth of detail that left nothing to be desired, and rendered impossible any suspicion of disingenuousness. She was, she said under Mr. Tutt's gentle guidance, the late Mrs. Grover's paid housekeeper, and had been so for fourteen years. In recently going over Mrs. Grover's effects she had found a paper, among many others, which she was informed had an important bearing upon the case and which was entirely in her mistress' handwriting and indorsed "Memo of my will." This paper she produced and Mr. Tutt immediately offered it in evidence.

"Show it to Mr. Toddleham," directed the surrogate briefly, and the Updycke forces crowded glowering about the attorney as they scrutinized the document.

"Well, I object to it as privileged," said Toddleham finally.

"How privileged?" inquired the surrogate. "It isn't addressed to anybody. It's one of the deceased's personal papers—found in her desk after her death. It has a convincing value as evidence—almost conclusive, I may say—of the testatrix's testamentary intentions, and is equivalent to an additional living witness as to the contents of the will. I may be in error—if so,

my action can be reversed through the greater wisdom of the appellate courts—but I will admit it. Mark it in evidence."

"And now," said Mr. Tutt, "I offer the will for probate—at least such parts as have been clearly substantiated by the evidence as required by Section 1865 of the Code."

"I will allow it," nodded the surrogate, "and deny Mr. Toddleham's motion. Letters testamentary may be issued to Miss Lucy Aymar as executrix."

That was all there was to it! Perfectly simple and easy! And neither member of the firm of Tutt & Tutt batted a lid or quivered as to a facial muscle. Yet Mr. Tutt had been guilty of gross professional misconduct —not a doubt of it!—and his conscience might—I say "might" advisedly—have rendered him quite miserable throughout his entire subsequent professional life had not Mandy, while passing him a liberal helping of chicken pie that evening, said as she drew forth a crumpled document: "I found dis yeah paper in dat ole pair ob trousers you tole me gib to de ash man—and I reckon it's de same one I hear you and yo' partnah making sech a fuss about."

"Thanks, Mandy," replied Mr. Tutt, as he stuffed the precious paper in his pocket. Then as he poured himself a glass of something out of a red bottle he mused : "'Where there's a will there's a way'—and sometimes even when there isn't!"

SAVING HIS FACE

WHETHER or not the Honorable Amos T. Wiltbank did save his face will be for the reader to decide somewhere further on. Perhaps this story should be more properly listed as "Face, Attempt to Save His;" or, "His Face, Unsuccessful Effort to Save." It makes practically no difference. Once you get speculating about such things there's no end to it. For example, as I write, it occurs to me that there may be some connection between the Chinese expression of "saving your face" and the Irish one of "saving your presence." I wonder! Anyhow, the Honorable Amos T. Wiltbank had plenty of presence—and he had also face. Have you ever noticed how there is a tide in the affairs of men which reaches at the flood up around the chin, when there seems—to speak vulgarly—to be a rush of flesh to the face? There is. Pink flesh. And some of the surplus is deflected lower down—Johnny Bullish. It is the flush of fortune, rose-tinting the summits of success. A thin magnate is no magnate at all.

The Honorable Amos T. Wiltbank was a regular fellow, as most magnates have been. This was shown by the fact that he did not call himself A. Todhunter Wiltbank, which he had a legal right to do. He knew better.

Neither did he wear a tall silk hat or drab burnsides, nor sport a gold-headed cane. No, he covered his bald spot with a green fedora, uncovered his neck with a turnover collar, and sported a pair of golden antlers on his lapel. He was no gilded lily; he was a power; not an old-fashioned multimillionaire or profiteer, but an up-to-date, Lambs-Club and sheriff's-jury guy who owned an interest in the Giants, and sometimes threw the ball into the arena at the opening game. A live one!

That was what made the situation so intolerable for those about him. For he had all the window-dressings of geniality, with the disposition of Caligula; a breezy grouch, a smiler with a glassy eye—ice-cream, so to speak, with tabasco sauce. Smart as silk, running to fat and fifty-cent cigars, and with twenty thousand dollars' worth of hooch cached in his cellar, he would have run away with it except for the pomposity, the self-satisfaction, the pink smugness that gets 'em all. He was hand in glove with both political parties, a regular Republican, but very close to Tammany Hall.

He was a special motor policeman, had a pass inside the fire lines, and could always get seats right down in front centre. "Say, know who that is? That's Amos T. Wiltbank!" You know the kind. He had a box at the Polo Grounds, and on Saturday afternoons in the spring a short foul into it might easily knock the blocks off a number of persons high up in the city government who like as not would be sitting there. In a word or

two, he was a heavy political and business swell, and what he said went. He brooked no interference with his will. He was a widower. His success had been the death of her.

The Honorable Amos T.'s office was on the very top —the thirty-seventh floor—of the office building in which the law firm of Tutt & Tutt were tenants—considerably lower down. He dwelt on an Olympus of Kurdistan rugs, smoked oak, mother-of-pearl push buttons, and best-quality green-grained imitation Spanish leather; they, amid the grime and dust of the New York Criminal Reports, Abbott's Practice and Forms, and the smoke of old Ephraim Tutt's poisonous stogies—all the difference, in fact, between the parlor floor and the kitchen, and in much the same way, the higher the colder.

But Tutt & Tutt were nothing in the life of Amos T., whose own lawyers were the great combination politico-legal firm of Vanderpoel, Callahan & Levitsky. Occasionally Amos T. would come up in the elevator with Mr. Tutt, but he did not know him. Contrariwise Mr. Tutt, who knew everything, knew Amos T., but did not like him. The cause of their difference lay in the imponderable trifle that one day, when Amos T. in getting out had tried to push in front of an old lady, Mr. Tutt had held him back. Later that morning Amos T. had fired two office boys and a salesman, and had made his stenographer cry. Yes, he had a mean streak, but

he was It. He had all the immense dignity and solid self-possession, coupled with the petty arrogance, of a tyrannical judge. Butler says, as you recall:

> Authority intoxicates and makes mere sots of magistrates;
> The fumes of it invade the brain, and make men giddy, proud and vain.

It may be felt that we are overdeveloping the Honorable Amos T., but naturally we must inflate before we can puncture him. Those who have the habit of success are prone to imagine themselves immune to nature's laws, and exceptions to all ordinary rules. They fall because they are unwilling to recognize the possibilities latent in the apparently insignificant. The grand dame waves her bejewelled hand and the great gates swing back as if by magic, but next instant she may slip heavily upon a banana peel. Goliath mocked the little yokel David with his sling, and Germany scorned tiny Belgium. Yet Goliath has been dead these many years agone, and look at Germany! So it was with Amos T.

Many stories below where the magnate sat in grandeur, gazing across the glinting waves of the harbor, and on the same floor with Tutt & Tutt, and adjacent to their suite, was situate the modest real-estate office of Mr. Moses Icklebaum, who dealt in lands, tenements, hereditaments, messuages, rents, and insurance of all kinds. It consisted of but a single room with two desks, at one of which, when he was there, he sat, and at the other a

certain Miss Margaret Haggerty, aged twenty-two, his assistant. As often happens, Moses was the figurehead, but Maggie was the brains.

The sign on the door read:

MOSES ICKLEBAUM
REAL ESTATE AND INSURANCE
M. HAGGERTY, NOTARY

It should have read:

MARGARET HAGGERTY
REAL ESTATE AND INSURANCE
M. ICKLEBAUM

The Honorable Amos T. had never heard of either of them—yet Maggie Haggerty, with the inconspicuous aid of Mr. Ephraim Tutt, was the cause of a revolution in the magnate's character, the making of a man.

Far up among the hills of Dutchess County, Amos T. Wiltbank had built for himself a great estate. With his usual business acumen he had gone there ahead of everybody else, had bought up several thousand acres and, having utilized what portion of them he wanted for his lawns, gardens, farms, and game preserves, had sold off the remainder to such as would pay for it. Among the latter had been Ezra Carter, a young farmer, who had purchased fifty acres together with the house and barn standing thereon. Those transactions were in the days of Mrs. Wiltbank, and of course, as a matter of the simplest business precaution, all the land Amos T. had

originally purchased he had taken over in his wife's name. Thus nominally Carter bought his farm from Mrs. Wiltbank, who was in turn to deed it to Carter's young wife.

It was a negligible affair to the magnate—that disposal of what was to him but a few acres of useless land. To Carter, on the other hand, it was a matter of the deepest moment, for it meant a livelihood, a home for his family, a future. The fifty acres cost him the savings of nine years. But the deal once put through, the magnate suffered the unsigned deed to lie upon his desk for days. The local real-estate dealer dictated a polite note to Mr. Wiltbank, who tossed it aside; Carter wrote in a childish humpbacked scrawl, asking the great man kindly to attend to having his wife sign the deed, but Wiltbank was too busy overseeing the building of his kennels to take the trouble to remember about it.

Then one morning the farmer appeared with his money in his hand and the proprietor called his wife over, showed her where to write her name, and signed his own as witness. Carter counted out the purchase price in soiled and crumpled bills, Wiltbank stuffed them in his pocket, and the deed was done—or, rather, delivered. The young farmer brought his wife to the farm; a child was born, a boy; and just as he had got the place in shape to make an honest living, Carter died.

This was all ancient history and only remotely connected—as a back drop, so to speak—with the little

one-act comedy of which we write. And then Mrs. Wiltbank died; and Wiltbank himself gave up his country place in favor of a sort of second blooming in the city.

Mrs. Carter struggled on, trying to run the farm, found herself not strong enough to do so, and offered it for sale. In due time a purchaser appeared, but when the day came to pass title it was discovered that Carter had never had the original deed to his wife recorded, and the county clerk now refused to do so, on the ground that Mrs. Wiltbank, the grantor, had not acknowledged it before a commissioner of deeds. Of course the buyer would not pay over his money until his grantor's title was clear on the records. There was only one thing to do, according to the clerk, and that was for Mrs. Carter, the grantee in the first deed, to go to New York and secure from Mr. Wiltbank, who had signed as an attesting witness, an affidavit—as provided by statute in such cases—to the effect that he had been present when his wife signed the deed, and saw her execute it.

Now this may seem to the reader a very simple thing. All the woman had to do, he may say, was to hop on a train, find the Honorable Amos T. Wiltbank and get him to put his name at the bottom of a paper. But that is the mockery of the law. What it requires may be the merest trifle—a "yes" or a "no," the scratch of a pen, the delivery of a sheet of paper, the lifting of a hand. Yet the procuring of that "yes" or "no," that

mark, that signature or that oath may involve difficulties rendered well-nigh insuperable by the ignorance, the poverty, or the fortuitous circumstances surrounding the person obligated to secure it. It would have been one thing for the Honorable Amos T. Wiltbank to shroud himself in his furs and motor at sixty miles an hour to New York, call up his lawyer on the telephone, and get an affidavit on any subject, executed by almost anybody, from the mayor himself up or down, in half an hour; it was quite another for Mrs. Carter to lock her house and barn, arrange for transportation for herself and baby seven miles to the railroad station, and, once in New York, to secure an audience with the great man and get from him the paper that she needed to make her record title to the farm complete. She had been in the city only twice in her life, she possessed but a few dollars, she knew nothing of law or lawyers, and her only guide was a slip of paper given her by the local Dutchess County real-estate agent, with the name and address of Moses Icklebaum upon it. That is all this humble tale amounts to—the desperate situation in which she found herself simply by virtue of another human being's selfish pomposity, and the fall that a plucky little Maggie Haggerty took out of the pride-swollen Amos T., whereby he became a better-mannered man.

So let us take our stand on the sidewalk in front of a Broadway office building and watch our characters one by one as they emerge from the Subway and pass inside

the revolving doors to play their parts. First Moses Icklebaum, thin, bald, nervous, hurrying along with a bundle of fire-insurance policies in his hand; then old Lawyer Tutt, in his stovepipe hat, carrying his ivory-headed cane, pausing to scratch a match and light a long rat-tailed stogy before entering; then the crisp, brisk Miss Minerva Wiggin, Mr. Tutt's chief clerk and confidential assistant, or, as he often called her, his legal conscience, in tailor-made suit of gray, her leather brief case under her arm; next the Honorable Amos T. Wiltbank, emerging, ulstered and begoggled, from his automobile, puffing a cigar, authoritative, regal.

Let us trail along with them. Behold the starter touch his cap as the great man stalks by! See him speed an elevator on its way, that the god may shoot up to Olympus, unsullied by contact with mere common mortals!" "Right through to the thirty-seventh—Jim!" he says. Behold the pomp with which Amos enters his office and greets his creatures, the air with which the urbane clerk relieves him of his fur coat in the antechamber of his business suite, and the anxious celerity with which Miss Madden, his social secretary, indicates the relative importance of his mail. Note the atmosphere of sanctity that pervades the cubicle in which he sits, and the hush that has fallen upon the office. What is greater than greatness? There is but one Amos Todhunter Wiltbank —and this is it!

"My name is Ozymandius—king of kings!
Look on my works, ye mighty, and despair!"

TUT, TUT! MR. TUTT

Maggie Haggerty was late coming in from Flushing that morning. There had been a block on the B. R. T. and she had had to get out and walk. She did not really mind, for this had the advantage of giving her the opportunity of a moment's banter with Officer Dennis O'Leary on the corner. Some day, she knew quite well, she was going to marry Dennis—when he got to be a captain, maybe—but she had no idea of making it too easy for him. That would be fatal, later on. So almost always she held him at arm's length.

"Your easy day, is it, Maggie?" said he, holding up the traffic with a *dégagé* gesture to let the wisp of a colleen cross under his arm. "Sure, you look prettier than ever! If it wasn't right in the middle of Broadway I'd be tempted to steal a kiss."

Maggie dug into his heavily padded ribs with a fairy elbow.

"Hold your tongue, you big booby!" she scowled with a twinkle in her gray eyes. "I thought you were set to catch thieves, not to be one. You—steal a kiss! Don't make me laugh!"

He half lifted her to the sidewalk.

"For ten cents I'd do it this minute!" he grinned as he released her.

Maggie made as if to cuff him and darted across the sidewalk, but on the steps she paused and called back at him: "Why not drop in at twelve o'clock when you go off duty?"

He nodded assent, grinning over his shoulder at her as he waved the traffic onward. He was a big man, was Dennis O'Leary—six feet four of muscle, bone and sinew—one not to be trifled with when resolved. So fine a figure of a cop, indeed, that once a month the Honorable Amos T. Wiltbank regularly gave him a box of Havana cigars, thus supposing that he would gain immunity from arrest if he violated the traffic laws. Oh, vanity! What is a box of cigars compared to the love of a maid?

We freely admit that the Honorable Todhunter was about the limit. Whether he sat sternly at his smoked-oak desk in his green-grained cordovan-leather arm-chair or strode thoughtfully up and down the Kurdistan rug with a cigar between his teeth, his subordinates eyed him furtively, as they might the lion at the zoo, ready to jump out of their skins at his gentlest roar; and the sanctum in which he sat was guarded by a series of antechambers full of wild beasts. Actually to reach and see the Honorable Todhunter was an achievement akin to climbing the Matterhorn. Royalty was nothing to him. A cat may look at a king, but a common human animal couldn't get even a look at A. T. W. No insurance or book agent, no bill collector, missionary, or bond broker could get over the threshold of the outer office—the first-line trenches. For a lynx-eyed intelligence officer sat at an advance observation post, and the minute an enemy appeared let him have it pointblank:

"Who do you wish to see? Have you an appoint-

ment? No? Mr. Wiltbank never sees anybody except by appointment. I'm sorry, but I cannot interrupt him. He is in an important conference. . . . Yes, you had better write him a letter."

Even if successfully past the O. P.—by appointment—you were only tangled in the wire, so to speak. You were grudgingly allowed to take a seat in the outer anteroom—Room 1—where you were told that Mr. Wiltbank would be free to see you in a few minutes. Here various suspicious persons, sauntering casually in, gave you the once-over to make sure you did not have homicidal mania or an infectious disease, or a subpœna, injunction, or capias hidden up your sleeve. The thing the Honorable Amos T. most abhorred in this life was a subpœna. The mere sight of one would turn him green. Once they got you on the stand in one of these infernal investigations or John Doe proceedings, they could tear the very innards out of you! They were so beastly unfair.

Amos T. held that it was nobody's business whether he was an interlocking director, had a pooling agreement with other companies, had contributed to the campaign funds of both parties, or had promised somebody's wife's cousin's nephew a job if his concern got a government contract. He regarded this prying into a man's private affairs as undemocratic, unconstitutional, and contrary to the very principles of liberty upon which our government was founded.

And no one had ever got to him yet. No one had ever slapped a subpœna on him. No one had ever made him hold up his right hand before a mahogany horseshoe draped with up-State Legislators and quaver "I do" in answer to a complicated adjuration to tell the whole truth and not merely a part thereof. No, sir! You might catch John D. or W. K. or J. P., but, by heck! you couldn't catch A. T. W. An ordinary citizen had about as much chance to reach the Honorable Amos T. Wiltbank as a drunken German to cross the No Man's Land of Verdun with the searchlights playing on him. So after you had been combed in Anteroom 1 you were shoved along to Room 2—and the door was locked behind you; then, in course, to Room 3, and at last you were face to face with—no, not Mr. Wiltback, but with Mr. Baer, his business secretary.

Mr. Baer was almost as much of a swell as his master; and almost as wise. Nobody had ever subpœnaed him either. He was the last trench, the Cerberus, the high priest or muckamuck or whatever who passed you in through the temple door to the shrine where A. T. W. sat smoking his cigar. You see how impossible it was to catch the great man. Besides, he had a secret exit which he could use if necessary. The process servers had given him up years ago, at the time of the original Lexow investigation.

On the beautiful spring morning when our story opens, the Honorable Amos Todhunter Wiltbank was sitting

in his office on the thirty-seventh floor of the building, with his feet on six hundred dollars' worth of fumed oak, with a fifty-five-cent—five for war tax—cigar in his mouth, while twenty-seven stories below him Mr. Ephraim Tutt reclined in the same position before an ancient rickety affair knocked down in a Liberty Street auction room for $3.70—and smoking a Wheeling stogy costing $.009 by the thousand. But the higher you are the bigger the bump.

"Mr. Tutt!" remarked Miss Minerva Wiggin, appearing in the doorway.

"Yes, my dear!" returned the old lawyer, smiling at her through the blue smoke of his stogy.

"You are always ready to help people."

"Yes, my dear."

"Well, I wish you'd help my friend Miss Haggerty. She's the notary across the hall, you know—with Moses Icklebaum."

"Where is she?"

"In the outer office. She's got a poor, helpless woman with her. The trouble isn't with the law—it's just the tremendous difficulty under which the poor and insignificant inevitably labor when they have to approach the rich and powerful; just getting to them, you understand. She——"

"Send her in!" cried Mr. Tutt, his congress shoes describing a perfect arc as they descended toward the floor with a bang. "Send her in!" And he sprang up.

"Here they are!" remarked Miss Wiggin, producing the visitors from behind her. "You know Mr. Tutt, Maggie. And this is Mrs. Carter, from Valley Fair."

Mr. Tutt shook hands with each ceremoniously and drew up a couple of chairs.

"Now," said he, returning to his desk, "what can I do for you—or Mrs. Carter?"

Miss Haggerty's freckles were almost submerged in the dull red that suffused her face. She was a wiry, nervous little thing not quite five feet in height.

"I'm just hopping mad!" she informed him, her eyes glittering. "Here's poor Mrs. Carter—her husband's only been dead a few months—come all the way down from Dutchess County with her baby, to straighten out the deed to her farm, and she can't get within a mile of the man who could fix it for her in half a minute."

"Who is he?" Mr. Tutt lifted his eyebrows.

"Amos T. Wiltbank."

"Oh!" exclaimed Mr. Tutt with interest. "You mean friend Todhunter?"

"Exactly."

The lawyer turned to Mrs. Carter. "Why do you wish to see this man?"

Mrs. Carter shifted the baby to her other arm and then raised a pair of rather faded gray eyes to the old man's face.

"You see, sir——" she began. "Oh, do keep quiet, Ezra! Mr. Wiltbank's wife sold us the farm and signed

the deed, but she didn't acknowledge it, and so the county clerk won't record it."

"Why not have her acknowledge it now?" he asked.

"She's dead," replied Mrs. Carter simply. "But Mr. Wiltbank saw her sign it, and put his own name on as a witness; and everything will be all right if only he will make an affidavit that he did. But I can't reach him."

Mr. Tutt's long face tightened.

"Why didn't you write him about it?"

"I did, but he never answered."

The old lawyer clapped his knee with his right palm. "He didn't—didn't he!" he growled.

"It makes me furious!" interjected Maggie Haggerty, jumping to her feet. "Mrs. Carter's all alone with her baby—nowhere to stay—has to get back to look after her cow and chickens—and unable to communicate with this man, who is right in this very building! First she goes up there and they won't let her cross the threshold; and then I go up and they shoo me out like a tramp."

"Did you explain what you wished to see Mr. Wiltbank about?" asked Mr. Tutt quietly.

"Why, of course! But they didn't half listen! They're so smooth and oily you can't get anywhere. They wouldn't even say whether he was in or not. And I had the affidavit all ready too. It would have been no trouble at all for them to take it in or for him to sign

it. But they pretended they didn't know where he was, or when he would be in, or how I could see him; acted almost as if they had never heard of such a man, although his name is on the door in great big letters; treated me like a book agent! Ugh! I could have punched that smart Aleck in the nose."

"Why didn't you?" laughed Mr. Tutt. "It would have done him good!"

"Well, he's still there!" she snapped.

Mr. Tutt caressed his lantern jaw thoughtfully.

"As I understand it, all you want of Wiltbank is that he shall make an affidavit that he saw his wife, now deceased, sign the deed, as grantor, of the land she sold to Mrs. Carter, she not having acknowledged her signature before any notary or commissioner of deeds at the time."

"That's it precisely," nodded Miss Haggerty. "The statute provides that such an affidavit by the subscribing witness shall be equivalent to an acknowledgement of execution by the maker of the instrument."

"Let's see your affidavit," suggested Mr. Tutt, and the notary handed it to him.

STATE OF NEW YORK }
COUNTY OF NEW YORK } *ss:*

On the twenty-seventh day of April, nineteen hundred and twenty-one, before me came Amos T. Wiltbank, the subscribing witness to the foregoing instrument, with whom I am personally acquainted, who, being by me

duly sworn, did depose and say that he resides in New York City; that he knew Sarah M. Wiltbank to be the individual described in, and who executed, the foregoing instrument; that he, the said subscribing witness, was present and saw Sarah M. Wiltbank execute the same, and that he, said witness, at the time subscribed his name as witness thereto.

"Quite all right," approved Mr. Tutt. "If you ever need a job, call in here."

"But how is Mrs. Carter going to make Mr. Wiltbank sign and swear to this affidavit?" demanded Miss Haggerty. "I know he's in his office, from the way they all acted. Besides, the starter told me that although Wiltbank went up this morning he hadn't seen him come down—and that he usually has his lunch served in his office on a tray. You can get within forty feet of him, and yet he's as far away as if he were in China."

Mr. Tutt was fingering the telephone book. "Give me West 9991," said he, lifting the receiver.

"Office of Amos T. Wiltbank," answered a silvery female voice.

"I want Mr. Wiltbank, please."

"Who is calling?"

"Ephraim Tutt, attorney at law."

"Do you know Mr. Wiltbank?"

Mr. Tutt ground his teeth. "Yes, yes!" he retorted. "Certainly I do!"

"Well, does he know you?" chuckled the telephone.

The old lawyer shook his fist toward the picture of Lord Eldon on the wall in front of him.

"He's heard of me, I guess."

There was a provoking laugh at the other end. "Kindly tell me what you wish to speak to him about?"

"I want to speak to him about a legal paper."

"Oh—a legal paper?"

"Yes. An affidavit I want him to sign."

"Mr. Wiltbank doesn't sign affidavits."

"Well, he'll sign this one!" roared Mr. Tutt. "Will you kindly tell him this is a very important matter and that a grave injustice——"

"Mr. Wiltbank is out of town," remarked the voice conclusively.

"When is he coming back?"

"We don't know. You'd better write him a letter."

Mr. Tutt suddenly sat bolt upright, turned to Maggie Haggerty, and placed the end of his forefinger upon the point of his nose.

"You say he's in his office?"

"I'm sure of it!"

"Did you ever hear of Section 305?"

"No; what is it?" demanded Miss Haggerty excitedly. "Should I have?"

Mr. Tutt did not reply to this counter-question.

"I'll give him one more chance!" he muttered. "One more chance."

Five minutes later a curious group emerged from the elevator and approached the outer office of the great Mr. Wiltbank. First came Mr. Tutt, lean, rackety, sardonic, in his shabby frock coat and baggy breeches, his wrists protruding from frayed round cuffs adorned with huge onyx buttons, holding an old-fashioned stovepipe hat. Just behind him followed Mrs. Carter, her baby in her arms, shabby but neat, her plain honest face pale against her threadbare mourning. Then Maggie Haggerty, hopping along like a small angry bird, ready to fly at the first head that might appear.

The middle-aged guardian arose, in his careful cutaway and equally careful manner, at their approach.

"Is Mr. Wiltbank in?" demanded Mr. Tutt.

"Who wishes to see him?" inquired Mr. Hosmer, the intelligence officer.

"Please tell him Mr. Ephraim Tutt, representing Mrs. Ezra Carter, of Valley Fair. I wish to get Mr. Wiltbank to sign an affidavit as to his wife's execution of a deed as grantor of some land sold to this lady here."

Mr. Hosmer looked faintly amused.

"Have you an appointment?"

"I have not. My client has come all the way down to the city to see Mr. Wiltbank, and she must return home to-day. If he does not sign this paper for her her journey will have been fruitless, her time and money thrown away. Merely as a matter of justice——"

Something in Mr. Tutt's manner impressed Mr. Hosmer.

"Wait a moment," said he. "I will see if something cannot be done. William! Take my place at the door."

A stout youth arose from a neighboring desk and usurped the place of Mr. Hosmer, who disappeared toward the rear of the office. The fact was that he had heard of Mr. Tutt, and it was the second time Mrs. Carter had been there that morning! Perhaps Mr. Wiltbank might be persuaded——

"Better not go in there!" warned Mr. Baer. "The boss is on the rampage. He'll bite your head off!"

But the captain of the guard pushed by him and knocked respectfully.

"Well?" came from within.

He entered. The Honorable Amos T. Wiltbank raised a plethoric countenance.

"Well?" he snorted.

"If you please, sir," began Mr. Hosmer timidly, "there's a woman here from up your way in the country. Her lawyer is with her, too—Mr. Tutt—a very well-known barrister. They want you to sign an affidavit——"

The Honorable Todhunter's massive face seemed suddenly to swell.

"What do you mean," he demanded, "interrupting me in the middle of my work this way? You know my orders! I see nobody without an appointment! No-

body! Tell these people to go and talk to Mr. Vanderpoel. If it's anything demanding my attention he can write to me."

Mr. Hosmer hesitated.

"Excuse me, sir," he began again. "Might it not be better for you to make an exception for once? This Mr. Tutt can be very disagreeable——"

"So can I!" yelled the apopletic Todhunter, lumbering to his feet. "Tell him I'm the most disagreeable man in New York. Tell him to go to Vanderpoel, and if he doesn't want to do that, tell him to go to hell!"

"Take this!" directed Mr. Tutt to the beautiful Miss Sondheim, his stenographer. "And knock it out on your machine now—before you go out to lunch:

"The People of the State of New York to Amos T. Wiltbank, greeting:

"I command you, that all and singular business and excuses being laid aside, you appear and attend before me, Margaret Haggerty, a notary public, duly qualified and appointed under the laws of the State of New York, in Room 1012 of the building known as — Broadway, Borough of Manhattan, New York City, forthwith, on this the 29th day of April, to testify under oath before me concerning the execution of a deed, in which Sarah M. Wiltbank appears as grantor and Emily P. Carter as grantee, and to the execution of which you were a subscribing witness. And for failure to so attend and

testify you shall forfeit to said Emily P. Carter one hundred dollars and shall be committed to the Prison of the City of New York, there to remain without bail and without the liberties of the jail until you answer under oath as required by the law.

"MARGARET HAGGERTY, notary public in New York County.

"EPHRAIM TUTT, attorney for MARGARET HAGGERTY, — Broadway, New York City."

"What is all that?" asked Maggie in amazement. "I can't issue a subpœna!"

"You can do a lot more than that, my child!" he replied. "You can commit this bulldozing ruffian to jail!"

"Little me?" she gasped. "It can't be. I never heard of such a thing"

"Very few lawyers have. Or, if so, they've forgotten it. It's the law, though," he informed her. "That is, it is how the statute reads. It's worth trying out, anyhow. Listen, I'll read it to you. It's Section 305 of the Real Property Law:

"Real Property Law, Section 305, compelling witnesses to testify.

"On the application of a grantee in a conveyance, his heir or personal representative, or a person claiming under either of them, verified by the oath of the applicant, stating that a witness to a conveyance, residing in the county where the application is made, refused to appear and testify concerning its execution,

and that such conveyance cannot be proved without his testimony, any officer authorized to take, within the state, acknowledgment or proof of conveyance of real property may issue a subpœna, requiring such witness to attend and testify before him concerning the execution of the conveyance. A person who, on being duly served with such a subpœna, without reasonable cause refuses or neglects to attend or refuses to answer under oath concerning the execution of such conveyance, forfeits to the person injured one hundred dollars, and may also be committed to prison by the officer who issued the subpœna, there to remain without bail and without the liberties of the jail until he answers under oath as required by this section.

"Now I propose to teach this mannerless brute what he is clearly too selfish or ignorant to realize, that the mere fact that he is supposedly a human being entails a certain recognition upon his part of the existence of other people."

"Hear! Hear!" cried Miss Wiggin. "I have always hated that man!"

"If," continued the lawyer grimly, "our friend Todhunter refuses to do that which the law requires of him, even if he be ignorant of his duty, we will take advantage of that same ignorance and stick him in jail—for a while anyhow!"

"Do you really mean——" stammered Maggie.

"Mean? Of course I mean!" shouted Mr. Tutt. "Take this, too:

"City and County of New York, ss: In the matter of the committal of Amos T. Wiltbank for a criminal contempt.

"On this 29th day of April, 1921, at about the hour of noon, the above-named Amos T. Wiltbank having been duly subpœnaed by me the undersigned to appear, attend, and testify as a witness before me concerning the execution of a certain deed to which he was a subscribing witness, between Sarah M. Wiltbank, grantor, and Emily P. Carter, grantee, and the said Amos T. Wiltbank having without reasonable cause, refused, and neglected to so attend, appear, and testify with respect thereto, now therefore it is ordered and adjudged that the said Amos T. Wiltbank forfeit to the said Emily P. Carter the sum of one hundred dollars and be forthwith committed to the City Prison of the City of New York, there to remain without bail and without the liberties of the jail until he answers under oath as required by Section 305 of the Real Property Law of the State of New York.

MARGARET HAGGERTY, notary public in New York County."

"Lord love you!" exclaimed Maggie. "Who ever would mind that?"

"Amos T. Wiltbank," answered Mr. Tutt grimly. "Or I'll know why! Do you know a friendly cop?"

"Do I know one!" ejaculated Her Honor. "The very finest!"

"Then produce him," returned Mr. Tutt.

Officer Dennis O'Leary had just been relieved from

post and was about to attend, in accordance with the previous command of his superior officer, at the office of Moses Icklebaum, when Maggie, hatless, met him at the curb.

"Do you love me, Dennis?" she demanded.

"Do I——" he began, astounded.

"Then prove it! Or I'll never speak to you again—or marry you—or anything!"

"Give me the chance!" he ejaculated. "What is it?"

"I want you to make an arrest—maybe!"

Dennis' kindly face expanded into a receptive grin. "If that's all—lead me to him!" he swaggered.

"Oh, I knew you would!" she panted delightedly.

"Who is it?" he asked curiously.

"Amos T. Wiltbank!" she shot at him.

O'Leary's jaw dropped and he stared at her blankly. "For the love of Mike!" he gasped.

"No, Denny dear," she responded archly. "For love of me!"

Ten minutes thereafter Mr. Baer, who happened to have gone into the outer office, saw the young policeman emerge from the elevator. Denny's monthly visits had rendered him a familiar figure, and the secretary had made a point of cultivating a sort of intimacy. You never knew when you would need a cop.

"Hello," he greeted him cordially. "Want to see the boss?"

"Sure," replied the officer. "Is he in?"

Baer nodded and motioned toward the communication trench.

"I guess it'll be all right for you to go in there. You know the way. Miss Madden, just tell Mr. Wiltbank that Officer O'Leary is here and wants to speak to him a minute."

The Honorable Amos T. was in the very act of bending over to remove a fresh box of cigars from the bottom drawer of his desk when Denny appeared at the doorway in answer to the permission extended through Miss Madden.

"Well," exclaimed Mr. Wiltbank with an affectation of delight at seeing his visitor, "how are you, old man? What can I do for you? Have a cigar?"

"Guess I'll pass 'em up this time, gov'nor," said Denny.

There was something in his tone that bothered Amos T., who in his entire experience had never known a cop to refuse anything before. In this we do not intend to reflect upon the police in general, but only upon those who were of the kind that Mr. Wiltbank knew. "What do you want, then?" he demanded.

"I've got a paper for you to sign, gov'nor," he answered quietly.

Instantly the Honorable Todhunter felt as if his stomach—no inconsiderable portion of his whole works—had dropped through the bottom of his green-grained

leather chair. It was a subpœna! In a flash he was on his feet.

"Look here!" he panted. "You ought to know better than to intrude on me like this without permission! You should have stated your business in the outer office. I never see anybody without an appointment. Please go out and confer with Mr. Baer."

"This ain't got nothin' to do with Mr. Baer," explained Denny. "This here is a subpœna——"

At that the world went bad for Amos Todhunter. Blackness descended. Devils shrieked.

"I don't care what it is!" he shouted. "Get out of here!"

"Listen, Mr. Wiltbank," urged Dennis in a vain endeavor to pacify him. "You sold some land to a man named Carter——"

"Go and see my lawyer!" yelled Todhunter. "I know nothing whatever about it. I didn't sell any land to him. I never sold any land to anybody in my life."

"Well, your wife——" began Dennis.

"Get out of my office," repeated Todhunter wildly, "or I'll send for the pol——"

His voice died away. Obviously, they were already there.

"First I'm goin' to serve you with this subpœna!" announced the cop doggedly.

"I won't take it!" yelled A. T. W. "Keep away from me!"

Dennis began to get angry.

"Yes, you will!" he growled. "You'll take that and a lot more before I get through with you."

Then he put his hand in the middle of the fumed-oak writing table and leaped over it. He had taken a prize in the hurdles at the police games down at Belmont Park. He slapped the horrid thing on Todhunter's chest just above the solar plexus.

"Take it!" he ordered.

Todhunter took it.

"Read it!" he commanded.

"I can't without my glasses!" expostulated Todhunter. "What is it?"

"It's a subpœna ordering you to testify about a deed."

"Who issued it?"

"Miss Haggerty."

"Who's Miss Haggerty?"

"She's the finest little woman——"

"I mean," interrupted Todhunter, getting hold of himself and, as he thought, regaining control of the situation, "what is she? How can she issue a subpœna?"

"She's a notary public."

Todhunter bit off the end of a cigar, lit it, and laughed.

"A notary can't issue a subpœna!"

Denny eyed him belligerently.

"Well, she has!" he announced.

"But I don't have to obey it," retorted Todhunter. "Who sent you here?"

"None of your business!" replied the cop. "A subpœna is a subpœna!"

"It's of no validity unless issued by a proper officer—a judge," answered Todhunter, now, as he supposed, on firm ground. "You'll get yourself in trouble if you lend yourself to such tricks. I know the commissioner and I'll see you get sent out among the goats."

For a fraction of a second there came upon the film of Denny's mind a mouthing close-up of the "Commish"—yclept the Little Tin Jehoshaphat—but it faded almost instantly in favor of Maggie's twisted little freckled smile. The Honorable Amos T. felt a hand hard as iron grab the linen adjacent to his Adam's apple and yank him to his feet.

"You come with me!" roared O'Leary. "You'll see who's the goat!"

Todhunter, choking, tried to free himself. His sacred person was unused to violence.

"Let go of me!" he stuttered. "There's obviously some mistake!"

But Denny did not relax his hold.

"You're going with me—now—like this! Come along!" he directed.

Todhunter half swooned. Go through an alley of smirking, sneering clerks like that—in front of Baer,

Wadhams, Miss Madden, the elevator boys! If he did he could never hold up his head again.

"Wait a minute!" he gagged. "I'll go with you—that is, I'll go as far as the elevator anyway. You're a nice fellow, you are! I don't know what this is all about, but can't I fix it with you somehow? How would a twenty-dollar bill look?"

"A thousand-dollar bill would look so small I couldn't see it!" snorted Denny. "Cut that out, Mr. Wiltbank! There's nothin' doin'. You come outside and I'll give you plenty of time to make up your mind what you'll do. But that's all."

"All right!" snarled Todhunter. "You take back that subpœna and forget you ever served it or I'll have your job! When I go after a man's skin I usually get his bones! I'll break you—understand?"

For reply Dennis propelled his prisoner vigorously toward the door. "Easy!" whined A. T. W. "I'm going!"

"You bet you are!" retorted O'Leary.

They passed through the shrouded sanctuary known as Room 3, the more blatant ostentation of Room 2, the austere elegance of Room 1, and into the large outer office, where it seemed to Todhunter as if no less than fifty pairs of derisive eyes were focused upon him. In the middle of the room, in full view of all the clerks, accountants, bookkeepers, stenographers, attendants, and office boys, stood a tall, lean, ramshackly, wizened

old cuss who looked something like a lamp-post wrapped in a frock coat, and whom the miserable magnate suspected he had seen somewhere before. Beside this gaunt Nemesis was a small but furious female, a panther woman who crouched ready to spring. Then she sprang.

"I have subpœnaed you," she announced in a high, firm voice, "to appear before me and testify regarding the execution of a deed to which you were a subscribing witness. Are you coming?"

Todhunter could hear the hush descending upon the office. The babble of voices, the rattle and ring of typewriters ceased. No jaws moved. It was as if a forest swaying in the wind had suddenly become motionless.

"My good woman," began Todhunter nervously, "this sort of thing is quite unpardonable. I do not recall the matter to which you refer. But whatever assistance I might have been to you is now out of the question. I shall decline to help you in any way."

A curious smile played elusively over Mr. Tutt's gaunt face, but he swiftly repressed it.

"All right," he muttered sotto voce to the little pepper pot beside him. "Go to it."

"Then," exclaimed Maggie dramatically, "I fine you one hundred dollars and commit you to the City Prison without jail privileges until you are prepared to testify. Of-fi-cer"—her voice shook almost imperceptibly—"of-fi-cer! Arrest that man and take him to the Tombs!"

Utter silence, as in the curvature of space, followed. It was broken by a brazen laugh from A. T. W.

"What nonsense!" he remarked. "You must be crazy! You couldn't send a dog to jail!"

"She can send you!" smiled the tall old man who towered above him.

"Who in hell are *you?*" snapped the Honorable Todhunter.

"I suppose I am known by the same name everywhere," answered Mr. Tutt benignly. "Let it suffice that I am the young lady's attorney. I advise you that she has full authority to send you to prison. Here is the necessary commitment, signed by her, and this officer is ready to execute it. Would you like to convey any messages to your friends before you start? Send for a toothbrush or anything?"

The Honorable Todhunter's face sank like a blazing sun into the purple horizon of his neck. To be insulted thus in the presence of his clerks; baited and jeered at! Suffocating with repressed fury he turned to Miss Madden.

"Call up Mr. Vanderpoel," he directed her.

A moment later she handed him the instrument.

"That you, Vanderpoel? Yes, A. T. W. Listen. Can a notary commit a person to jail simply because that person refuses to be questioned about a real-estate transaction?"

"Notary—send—a person—to jail!" ejaculated Mr.

Vanderpoel. "Of course not! Who ever heard of such a thing? Nobody except a judge can send anybody to jail."

"Well, there's a notary trying to send me," answered Todhunter.

"You? You! That's a good one!" laughed the learned Vanderpoel. "Tell him to go to the devil."

The Honorable Amos T. Wiltbank hung up the receiver.

"My lawyer instructs me to tell you to go to the devil!" he informed Miss Haggerty.

"Very well! Arrest him, of-fi-cer!" she quavered.

With something that sounded suspiciously like profanity Officer Dennis O'Leary brought his hand down with a bang upon the magnate's shoulder, gripped him roughly by the collar and dragged him toward the elevator. A gasp of astonishment and horror escaped from half a hundred throats. The great A. T. W. treated like that—so rough!

"Help!" cried the magnate. "Look here——"

"Under the law," said Mr. Tutt calmly, "you may be sent to prison. I will show you the statute if you care to read it. I confess it is rather obsolete, but it will serve. It is Section 305 of the Real Property Law. But you may still escape the humiliation of going to jail by acceding to the young lady's demands and signing the necessary affidavit—which I hold in my hand."

The Honorable Amos T. Wiltbank hesitated. Should

he now yield he could never again be the same to his employees. He would be an exploded balloon, a shattered idol, a busted phenomenon. But if he didn't——

"Come along, you!" snarled Dennis, jerking him ignominiously.

Hot tears of baffled rage and humiliation smarted in the great man's eyes. The cop's knuckles dug painfully into the cords of his neck. His collar hurt him.

"Come on!"

Oh, sacrilege! What difference did it make whether this outrageous performance was legal or illegal? Here was an officer who was prepared to yank him into the elevator and, if need be, club him to a pulp and drag him by the heels down Broadway to the Tombs. Even if he didn't beat, club, and mangle him he would bruise and maltreat him by word and deed, conduct him along by the arm in the presence of a jeering crowd, who would follow, snarling, at his heels. It was not so much the idea of jail—even without the usual courtesies—as the puncturing of his pride, the writhing humiliation, the awful irony that he, the great A. T. W.—the man who had cigarettes named after him—should be—— Oh it was inconceivable! And think of the newspapers!

The shadow of the descending elevator flashed across the ground glass and the door slid open.

The magnate went suddenly weak in the knees. He was beaten; he knew it! For the first time in his life

his bluff had been called—and by a woman! He wavered, he caved!

"Goin' down?" intoned the elevator man.

"I think not," answered the Honorable Amos T. Wiltbank sheepishly.

IN WITNESS WHEREOF

I

WHAT I want is a lawyer who can deliver the goods; I don't care what it costs. Can I talk business with you?"

The grim-visaged woman sitting opposite Mr. Ephraim Tutt looked across the desk at him significantly.

"I don't know why not," replied the lawyer affably. "Business is what I'm looking for; what every lawyer is after, I guess!"

"Well"—she hesitated, striving to penetrate the sphinxlike mask of his wizened old face, which had defied lawyers and judges and poker players alike for half a century—"you drew Cabel's will, and you're the executor named in it. I know that much, because he's told me so. Now, it's this way: Cabel wants to make some changes in that will of his, but, besides being old and feeble, he's crotchety and cantankerous and suspicious of almost everybody. But he'll listen to you. You're his executor and the proper one to do it anyway."

"Well," hazarded Mr. Tutt blandly, "as I said before—why not?"

"So naturally I've come to you. Besides, I've heard quite a lot about your firm; and I guess you and I can get along pretty well together."

"I'm sure we can," smiled the attorney. "I always strive to please."

"What's more, I'll see that your fee is promptly paid —with maybe a little besides!" she concluded meaningly.

Mr. Tutt searched her face.

"Am I to understand then that you—and not Mr. Baldwin—are my client?" he inquired pointedly.

Mrs. Alfreda Baldwin smiled to herself. She wasn't going to let the old fox catch her—put her in a position where maybe she would have to pay his bill.

"Not at all!" she retorted. "It is my husband who wants his will changed. He's your client—not me. All I say is that you don't need to worry about getting paid. Anyhow I don't see what difference it makes which of us is your client."

Mr. Tutt fumbled in a long box upon his desk and selected a cigar resembling in shape and general appearance what a coiffeur would refer to as "a rat."

"Do you mind if I smoke?" he inquired ceremoniously. "Answering your question—it might make a lot of difference which of two persons happened to be one's client."

"How do you mean?" she demanded. "Of course I don't mind if you smoke."

Mr. Tutt carefully ignited the attenuated stogy which he had excavated from its stratified brethren.

"A lawyer has to be faithful to his retainer—even if sometimes he doesn't get it," he announced, exhaling a poisonous cloud of greenish-gray smoke. "It is the duty of the attorney to be loyal to the interests of the person who employs him and to carry out his wishes to the best of his ability, just as it is the duty of the client to compensate him for his services. Now, if those interests conflict with those of any other person——"

"Oh, I understand all that!" she interrupted. "That doesn't enter into it here. Mr. Baldwin is your client. I am only his agent—his messenger, if you choose. He will pay your bill. But, as it happens. our interests and wishes are identical."

Mr. Tutt nodded behind his smoke screen.

"That's all right, then!"

She returned his glance fixedly. He had not put anything over on her and he had, she opined, absorbed her hint about the "little besides" and all the rest of it.

"I don't want to have Mr. Baldwin disturbed any more than is absolutely necessary," she continued. "We both thought that I could tell you what he wanted to do with his money and that you could draw up a codicil here in your office and bring it up to the house for him to sign. That's the simplest, easiest way, isn't it? A codicil?"

"Quite so!" agreed Mr. Tutt. "I can easily do that

if you really know what changes he wants to make in the disposition of his property. But there's no use preparing a codicil and having it engrossed only to find you've got to do it all over again."

"You won't have to do that in this case. I know—that is, Mr. Baldwin knows—exactly what he wants to do. I've been over it with him most carefully. It's all written down right here."

She produced from a black bead bag several sheets of folded note-paper covered closely with handwriting. Mr. Tutt drew toward him a yellow pad, regretfully laid down his stogy and took up a pencil. Mrs. Baldwin put on a pair of heavy spectacles, which intensified her already hawkish appearance, and settled back in her chair.

"First, he wants to bequeath outright ten thousand dollars each to the Museum of Art, the Museum of Natural History, the Children's Aid Society, the Charity Organization Society, St. Luke's Hospital, and Columbia University."

"That makes sixty thousand dollars," commented Mr. Tutt, jotting down the names. "What next?"

"Then he wants to leave thirty thousand dollars to Alvin H. Spearman, of Englewood, New Jersey."

"Who is he?" asked the lawyer, his pencil poised.

"An old friend of his," she answered. "And thirty thousand dollars to his wife, Rowena Howell Spearman."

"That makes another sixty thousand dollars," said Mr. Tutt.

"Twenty thousand each to Alfred Spearman, the son of Alvin Spearman; Esther S. Bowman, of Trenton; Anna S. Rawson, of Scranton; and Josephine S. Briggs, of New York City."

"Now you've got two hundred and forty thousand."

Mrs. Baldwin eyed him a trifle suspiciously.

"What's that?" she snapped.

"In personal legacies, I mean," he explained quickly. "He's disposed of two hundred and forty thousand in all."

Mrs. Baldwin checked off something on the sheet of note-paper in her lap.

"Then he wants to leave ten thousand each to the following: Almina Bostwick, of Jersey City; Georgina H. Hibbard, of Flatbush, Long Island; Isabel F. Hawkins, of Flushing, Long Island; Mary P. Daly, of Riverdale, New York; Edith L. Mills, of Yonkers, New York; and Althea W. Rose, of Ringwood, New Jersey."

"Sixty more," scored Mr. Tutt. "Makes three hundred thousand dollars. Then what?"

"Twenty-five thousand to the Nurses' Benefit Club."

"What's that?"

"A charitable corporation," she answered shortly. "Then fifteen thousand each to his physicians, Doctor Samuel Woodman and Doctor Richard Aspinall."

"I have it," said the lawyer.

"Then there are a few smaller legacies: Five thousand dollars to Bridget Mulcahy, the cook; five thousand to Patrick Moynahan, the butler; five thousand to Pierre Larue, the valet; and five thousand to Agnes Roony, the parlor maid. He believes in being liberal with servants."

"So I see!" observed Mr. Tutt. "And with the medical profession as well!"

"Oh, he's very fond of both Doctor Woodman and Doctor Aspinall!" she assured him. "They have been lifelong friends!"

"Anything more?"

"Only his legacy to me—two hundred and fifty thousand—and, of course, I'm also to be the residuary legatee," said Mrs. Baldwin, folding up her notes. "You'll continue as executor. How soon can you have the codicil ready?"

"By to-morrow afternoon," he replied. "It's quite simple."

"Then bring it up to-morrow evening so that Mr. Baldwin can sign it," she directed. "About nine o'clock, say?"

"As you like," he agreed. "If that will be more convenient for your husband than to have him come here."

"Oh, he couldn't possibly come here!" she asserted. "He's sick in bed!"

Mrs. Baldwin arose and pulled down her black jacket, which had a tendency to ride upward upon her ample

figure; and Mr. Tutt arose also. There was something about her which inspired in him more than dislike—he could not say exactly what, whether it was the beetling nose, the compressed lips, the expansive, tightly corseted bosom, the flabby brown skin beneath her chin, which merged into the pendulous cheeks—like an old mastiff, he decided. A full-rigger! How could any man in his senses have married her? And the thought quite naturally suggested that perhaps the man hadn't been.

II

"Where did you get little Eva?" chirped Tutt, peering at his partner over his goggles through the door after the lady's departure. "I was quite worried at first over leaving you alone with her!"

Mr. Tutt's long wrinkled face wreathed itself in an expansive grin.

"Isn't she terrible!" he ejaculated.

"Some crocodile!" asserted the lesser Tutt. "I can see now what the fellow meant when he said that the female of the species is more deadly than the male! What kind friend passed her on to us?"

"Nobody—she came herself," replied the senior partner. "I think she must like my looks!"

"B-r-r-h!" shivered Tutt, shielding his face with his hands. "I hope she won't take a fancy to me!"

"You're safe!" laughed his partner. "Mrs. Georgie

Allison has rendered you immune to the attractions of the opposite sex for all time."

"Who told you about that?" queried Tutt rather peevishly.

"Never mind! Never mind!" returned the old lawyer airily. "You can't keep all your little peccadilloes concealed from the public eye."

"I know! Miss Wiggin must have double-crossed me!" growled Tutt. "Well, reverting to the subject we were discussing, what was the Lady Gorgon's name?"

"Mrs. Cabel Baldwin."

"Wife of the old fellow that married his trained nurse?"

Mr. Tutt gave a fervid start of surprise.

"What!" he ejaculated. "Really?"

"Don't you recall the case? 'Nurse Spearman'—and all that? It was in the papers," Tutt reminded him. "He got out of bed when he had the pneumonia or something and beat it over to Jersey and married her before a J. P. without telling even his own daughter. That was about three years ago. He was seventy-two; she was forty-seven. He'd be over seventy-five now, and she'd be fifty."

"She would! She is!" assented Mr. Tutt. "Or stronger!"

"There was a grand row about it!" said Tutt. "But nobody could do anything. The Constitution guarantees to every man the inalienable right to marry his

trained nurse. But she was such an old chisel-face that it seemed as though she must have chloroformed him first. She'd been married before, too; twice, I mean!"

"So that's it!" remarked Mr. Tutt. "Did you say there was a daughter?"

"I have an idea there was, but if I remember correctly she was away at college or somewhere. I don't recall all the details. But look out for nursie! What did she want?"

"To have us draw a codicil to her husband's will."

"Oho!" piped Tutt. "And does little birdie get the big fat worm?"

"She gets half of it; the other half of the worm goes to various individuals and charities."

"That's funny!" commented the junior Tutt, pursing his lips. "If she was after the kale why should she let anybody else have a rake-off?"

Mr. Tutt took a turn up and down his office, then he amputated another stogy, lit the remains, leaned back in his swivel chair, crossed his congress boots upon his desk and folded his hands behind his head.

"Simply because that's the artistic way to do it," said he. "Don't you remember the Blodgett case? Blodgett was ninety-one and dead at the top; he'd had senile dementia for fifteen years. A woman got hold of him—only that time it was a young one—and induced him to make a will in her favor. All she had to do was to take him out to concerts and ride him round

the park in a victoria. Well, when he died it was discovered that he'd left her the greater part of his fortune—a couple of millions; but—and here was the clever part of it—he'd apparently divided another million between Harvard, Yale, and Princeton, with the result that, although the heirs at law and next of kin contested the probate, they found the three most influential universities in the country lined up against them, with all their counsel, naturally including the leaders of the bar, alongside Little Bright Eyes—who succeeded in probating the will, got her two millions and bought a foreign prince and a château on Lake Geneva with them."

"Pretty good!" nodded Tutt. "And is that the game our old battle-axe is trying to pull?"

"Here's the horoscope. Read it for yourself," answered Mr. Tutt, pushing the yellow pad toward his partner with his toe. "You'll note that the very first thing she did was to square a few of our more select public institutions—like the Museum of Art and St. Luke's Hospital."

"Holy crickets!" mused Tutt. "I wonder if she could be the same girl—tired of living on Lake Geneva with her prince—and looking for further adventures!"

"No," declared his partner. "You couldn't give this one away with a bonus of two million dollars."

"Aha! What's this?" suddenly cried Tutt, scanning the prospectus of Mr. Baldwin's proposed benefactions.

"Here's another little joker! Twenty thousand dollars to the domestics and thirty to the doctors! She's got all the witnesses signed, sealed and delivered! He could be a raving maniac and there'd be nobody to prove it. No doctor—that is, no 'bug doctor'—is going to admit that any patient of his can have senile dementia who has sense enough to leave him fifteen thousand dollars! We ought to take Alfreda into partnership!"

"But you haven't covered it all yet!" said Mr. Tutt. "I'll wager that if we looked into it we'd find she's not only given herself a quarter of a million and the residuary, but in order to prevent any possible slip-up she's salted a quarter million around where she can get hold of it afterward if she misses out on her own legacy. She's left her father and mother thirty thousand each, and the four little Spearmans eighty more; to say nothing of half a dozen of her intimate female friends and a nursing society of which she probably controls the board of directors."

"Rather a speedy client!" affirmed Tutt.

Mr. Tutt shook his head.

"She's not our client."

"Who is, then?"

"Her husband."

"It's all the same thing," affirmed the lesser Tutt. "You can soak her a thousand or fifteen hundred just for drawing a codicil like that! And think of the fight we'll have on our hands when the old boy dies! Makes

no difference to us which way the cat jumps. If she gets him to execute your codicil we'll have to defend it against the heirs on the ground of mental incapacity; and if he won't execute it she'll have us attacking all his prior wills in her behalf on the same ground. Coming and going! Both ends against the mid. It'll take six months in court—after we finally get there! Why, it's worth thirty thousand dollars to us!"

"Do you really think so, now?" murmured his partner. "Thirty thousand dollars is a lot of money—a powerful lot of money!"

The morality—or rather the immorality—of lawyers has been the subject of jest since the days when the bare fact that a man could read and write rendered him immune to punishment for crime. "Benefit of clergy" was felt to be a joke; and so was the law. The pun that made "lawyer" and "liar" indistinguishable dates doubtless from considerably before the days of Falstaff. Not only, as Bumble said, was the law "a ass, a idiot," but lawyers were natural-born pettifoggers, crooks, thieves, tricksters, and rascals. An honest lawyer? There was no such animal!

We have no desire at the present writing to enter into a general defense of the conduct of our brethren of the bar, but merely take occasion to point out that in many instances the lawyer is really no more deserving of censure than the layman the product of whose skill is subsequently used by another for an unlawful

or immoral purpose. Shall no more whips be manufactured because some ruffians use them upon their wives? Or chisels, lest burglars avail themselves of them in their unholy business? Shall the cobbler cease from cobbling for fear that some one may hurl his shoe after a blushing bride? Tut-tut! There is nothing under the sun that cannot be made subject to the devil's ingenuity. We have even heard of two murders committed within a single month by means of oyster shells. Yet, shall we be forbidden oysters?

The reader has already grasped our analogue. Shall there be no cakes and ale because a custard pie can be used as an instrument of assault? And, similarly, because a will, deed, bond or other paper writing may, perhaps, be used eventually to perpetrate a fraud, is that any reason why an innocent attorney should not draw it up? He may suspect that old Hardscrabble intends to cheat the Widow Perkins, or that the rifles for which he has drawn the bill of sale to Mr. Jones are intended for Mr. Villa; but the very law by which the attorney earns his livelihood requires him to give the benefit of the doubt to an accused and presume him innocent until the contrary is proved. Why, then, should he not give that same doubt to old Hardscrabble, to Mr. Jones—and to himself?

Thus, shall a lawyer refuse to draw a will because his client might—if he were made the subject of prolonged study by a faculty of alienists—be shown to be

without testamentary capacity? Shall he take the bread out of his children's mouths because the fruit of his professional labors may, in the hands of another, be used to work an injustice? Must every attorney maintain a hospital, an observation ward in connection with his office? Nay! Such a thought is nonsense! It is no part of a lawyer's business to act as a spy upon his client or anticipate and expose his contemplated iniquities.

Had Tutt & Tutt refused to draw the codicil to Mr. Baldwin's will Alfreda would simply have given the job to some other firm. They knew well that a will is like any article of merchandise purveyed in market overt; for instance—a bologna. If the buyer is planning to administer the bologna to an infant of tender years—or days—it may, it is true, thereby become an instrument of infanticide; and in like case if a will or a codicil is about to be offered for signature to an imbecile it may become a link in a chain of fraud; but why gratuitously visit upon either the will or the bologna a foul suspicion which may in fact be entirely unwarranted?

Let us admit at once—whether or not the reader be convinced by this tosh, which we contend is as sound as most legal argument and equally edifying—let us admit freely, frankly, and without reserve that it did not occur to Tutt or even to Mr. Tutt to decline to draw the codicil proposed by Mrs. Baldwin. It was a perfectly good legal job for anybody. It would take

Mr. Tutt, with a stereotyped office form before him, twenty minutes—no more, probably—to dictate it to Miss Sondheim, who would thereupon pound it out on the typewriter; then Mr. Tutt would correct and possibly revise it; and Scraggs, the inebriated scrivener in the wire cage in the outer office, would have a perfect time writing it all out in a beautiful Spencerian hand on glossy imitation parchment; after which Miss Wiggin, the chief clerk, Willie, the office boy, and Miss Sondheim would deck it out like a newborn babe in dainty blue ribbons, tie a beautiful red seal around its neck, roll it up tenderly in tissue-paper and put it to sleep in the top drawer of a desk until it was time for somebody to unwrap it, spread it out upon the counterpane of the death chamber and, pointing to the final paragraph, beginning with the fateful words "In witness whereof," place the pen in the shaking hand of the testator and say: "Well, Mr. Baldwin, you understand, of course, that this is your will? Yes, I said, 'Your will.' Will. W-i-l-l—WILL! Yes! Sign here!"

And Tutt & Tutt would thereupon receive in due course from the executors a check for a thousand dollars, of which about nine hundred and ninety-three would be net. Why should Mr. Tutt have refused this choice titbit of humdrum practice—particularly as will-drawing was one of the best things that he did? Can he properly be censured for so doing?

Yet, quite naturally, what might be called the inter-

nal evidence of possible fraud contained in the codicil itself excited his interest. Certainly every step had been taken to render the instrument, if executed, impregnable to attack. However, there was no particular reason why it should be assumed that the scheme had not emanated from the mind of the old gentleman himself. Many a testator provides his legatees with a doughty legal champion by leaving a fat legacy to some eleemosynary institution which will lose it if the will is denied probate. But in this instance, it is true, there were other indications that Mrs. Baldwin was engaged in feathering her nest in an expert manner and safely anchoring said nest against the assaults of outraged heirs and next of kin.

Now, Mr. Tutt practised law largely for the fun of it, for he really didn't need the money, and he scented in the visit of Mrs. Alfreda Baldwin a plot almost as exciting as a detective story. And that was why he sent for Mr. Bonnie Doon, that wise and finished specimen of young-gentleman-about-town, who made himself generally useful to Tutt & Tutt, and instructed him to ascertain by whatever means were at his disposal all he could about the past career of Mrs. Cabel Baldwin, née Alfreda Spearman, daughter of Alvin Spearman, Esquire, of Englewood, New Jersey.

III

"Tell Oscar I want him here at nine o'clock without the car," said Mrs. Baldwin from her desk in the library to the girl sitting listlessly by the centre table with her hands in her lap. "Don't send the message, either. Speak to him yourself. And tell the other servants they can have the evening out."

The girl arose silently. She was languid, pale, harassed, with dark circles under her eyes, but she bore herself with dignity.

"Why don't you answer when you're spoken to?" snapped the older woman. "One would think you—and not I— was the mistress of this house!"

"I haven't any such delusion," answered the girl tonelessly. "I will take your message. You know very well I'd not stay here another day except for my father."

"You know well enough where your bread is buttered!" shot back her stepmother with a sneer. "You are dependent upon me for everything you have in this world. And you had better mind your p's and q's."

"Shall I tell Oscar what you want him for?" asked the girl.

"Ha!" replied the other. "You want to find out, do you? Well, it's none of your business!"

The girl shrugged her shoulders and walked slowly toward the door.

"And then come back here!" ordered Mrs. Baldwin.

"I don't want you hanging round your father. He can't stand your whining and crying!"

The girl controlled herself with difficulty, and once in the privacy of the hall outside the library burst into tears. She had been living under the same strain ever since the previous spring upon her graduation from college, where her father had sent her at the death of her mother four years before that. She had gone away from home leaving him a melancholy but apparently well old man. A year later she had received a sudden telegram from him announcing his marriage in Jersey City to an unknown woman who, it turned out, had been acting as his nurse during a sudden attack of pneumonia.

She had been crushed not only by her father's forgetfulness of her mother in so short a time but also by the notoriety that had followed the old man's escapade and the state of mental and physical deterioration in which she found him on her return. From being a handsome, vigorous, upstanding old gentleman he had shrivelled away into a bent, tottering, querulous invalid afraid of his own shadow; at times, when they were alone, responding to her caresses with something of his former affection, but in general furtive, suspicious, cowering before this strange, ugly woman who had in some sinister way secured mastery over him—fearful in her presence to call his soul his own. There seemed to be something hypnotic about the ex-nurse's influence, for the mere sound of her voice was enough to set his shrunken old

limbs trembling. And if when she was down-stairs she heard him up and moving about in his room she had only to call up through the well, and he would obediently clamber back into bed again.

So Lydia Baldwin found herself half servant, half prisoner in her father's house. She would, as she had said, have fled out into the world and earned her own living had it not been for the possibility that she might be of some service to him. She saw her father getting weaker and weaker, but was not allowed to minister to him save under the direction and supervision of her jailer. Everybody employed in the establishment—in fact everybody who came there—was on her stepmother's pay-roll. Even the doctors were persons of the latter's own choosing, with whom she had had some mysterious association in the past. Surrounded by spies, without money, Lydia Baldwin was treated as a hostage, all her movements watched and reported upon.

At rare intervals her father would awake as from a nightmare and, once a month, perhaps, would have a day when he seemed almost like himself again and would even make feeble jokes about his condition. These exceptional phases occurred without premonition and were immediately followed by states of depression in which he believed his end to be near and during which he insisted upon the constant presence of his wife, upon whom he then seemed utterly dependent. At such times Lydia suffered torture, since she could not even render

her father the solace of her affection. Then, and only then, was she really tempted to accept Henry Holborn's offer of marriage and escape from the domestic hell in which she lived. For, although Henry was only twenty-five—she was twenty-three—he was earning a good salary in an architect's office, and his abilities were recognized as such as to entitle him to view the future with confidence. That she would remain penniless Lydia had no doubt. Her stepmother would never permit her father to leave her anything; and although he had once told her shortly after her mother's death that she would one day be a rich woman, since his second marriage he had never referred to the subject.

IV

It was precisely nine o'clock when Mr. Tutt mounted the front stoop of the Baldwin mansion and rang the bell. Mrs. Baldwin opened the door herself.

"Good evening," she said affably, extending a muscular hand, with a smile as convincing as that of a hyena. "Glad you're so prompt!"

Over her shoulder the old lawyer could see the drooping figure of a young girl standing disconsolately at the head of the stairs leading to the next floor. As he took off his coat and hat she turned away and retreated into the shadow.

"Lydia, come down here!" called up Mrs. Baldwin.

"I don't want you bothering your father. Come and meet Mr. Tutt!"

The girl obediently emerged once more and, resting her hand upon the rail of the staircase, came wearily down. Descending thus, with the half light falling upon her pale face against the background of shadow, she reminded him of a Burne-Jones figure standing at evening beside some lily-covered pool. Mr. Tutt's parched old soul yearned to her like a withered tree whose leaves thirst for a cool breeze after a sultry day.

"Hurry up!" ordered Mrs. Baldwin. "Don't keep us waiting all the evening."

The girl lifted her chin proudly and as she did so caught the tender gleam in the old man's eyes. There was no mistaking that look of pity, almost of affection with which he was regarding her. She smiled faintly.

"This is my stepdaughter, Lydia," said Mrs. Baldwin.

Mr. Tutt moved a step forward, took the girl's hand and bent over it as she stood upon the stairs above him. Then, still holding it in his, he led her down the remaining steps. Something—we do not know what it is that leaps from heart to heart on such occasions—passed between them. Neither spoke. Yet each said to the other, "I am your friend!"

"I want you to sit here in the front parlor, Lydia," said Mrs. Baldwin, "and when I call to you, send up Oscar to your father's bedroom. If anybody should

ring the front-door bell, you answer it. The servants are out."

"Very well," answered Lydia coldly.

"Now," continued Mrs. Baldwin, "if you are all ready we'll go up-stairs." She lowered her voice to a whisper, so that Lydia, who had gone into the drawing-room, might not hear. "Have you got the codicil all ready?"

Mr. Tutt nodded and followed her up to the next landing. The woman turned the knob of the door nearest the head of the stairs and pushed it open with a suggestion of stealth. Certain people cannot move without giving the impression of trying to stalk some prey. Usually it is a man trying to stalk a woman. This time it was a woman trying to stalk a man.

In a large high-ceiled room, dimly lighted by only a green-shaded reading-lamp, an old man lay propped up in bed. The face was gaunt, the eyes lustreless, the mouth drooping. Both arms were extended across the sheet in front of him, motionless and parallel.

"Here is somebody to see you, grandpa!" said Mrs. Baldwin as if she were speaking to a child who must be at one and the same time cajoled and warned to be good.

The old man in the bed licked his lips and a hardly perceptible quiver passed over his features.

"This is the lawyer," announced his wife. "Mr. Tutt. You know him."

A puzzled look—of recollection, almost of recognition

—flickered in the senile eyes, followed by one of dread fused with cunning.

"Yes," he replied thickly in a half whisper, "I know him."

"He has drawn up the codicil for you to sign." She might as well have added the words "like a good little boy."

Mr. Baldwin made no reply. He appeared for the moment to have forgotten that they were there.

"Cabel!" said Mrs. Baldwin in a metallic tone, stepping toward the bed. "Cabel—pay attention!"

The old man shrank back as if he had been slapped in the face.

"I'm listening," he protested feebly, blinking.

"Sit down, won't you?" directed the wife. "He's a little dopy to-night. But he's all right. You take that chair by the bed."

Mr. Tutt did as he was told. What was the truth behind this rather grisly tableau? What was the old man's real condition? Was he of sound and disposing mind and memory?

Mrs. Baldwin stepped to the foot of the bed, facing her husband.

"Now, Cabel, listen to me!" she repeated, articulating with meticulous distinctness. "You're going to make a codicil to your will—understand?"

The old man peered craftily at her out of the shadowy caverns of his eyes.

"My will," he muttered slyly. "I've made my will."

"But you're going to make a codicil to it. You want to!" she said, focusing her eyes upon him. "Grandpa wants to make a codicil to his will—all nice and fresh!"

"A codicil," mumbled Mr. Baldwin, as if to himself. "Yes—yes! That's so. I want a codicil. Where is it?"

"The lawyer has it—right there!" she said. "Here is the pen. Put the paper there in front of him."

"But I must read it over to him first," declared Mr. Tutt. "I must be sure it contains his wishes."

"It isn't necessary!" she answered quickly. "I've been all over it with him a dozen times. You see how hard it is to get him to concentrate! I was a week finding out what he wanted. The sooner it is done the better!"

"But it is necessary that I should read it to him!" protested the lawyer. "It would be most irregular if I did not! Mr. Baldwin, I am about to read over to you the provisions of the codicil which I have drawn according to what I understand to be your wishes. Will you kindly give me your attention?"

Mr. Baldwin turned and stared vacantly at Mr. Tutt.

"I've made my will," he repeated.

"This is a codicil."

"Oh, yes. A codicil."

Mr. Baldwin nodded once or twice as if now entirely conversant with what was going on.

"Shall I read it to you?" inquired Mr. Tutt a little impatiently.

"Yes—read it to me," said Mr. Baldwin.

Mr. Tutt held the carefully engrossed document beneath the lamp and began:

"'In the name of God, amen! I, Cabel Baldwin, being of sound mind and memory, do hereby make, publish and declare this as and for a codicil to my last will and testament——'"

Suddenly the old gentleman began to whimper.

"I want my milk!" he whined. "I want my hot milk! Where is it?"

Mrs. Baldwin uttered an exclamation of annoyance.

"Can't you wait a minute?" she cried angrily. "It will only take a moment."

"I want my milk! I can't do anything without my milk!" he moaned pettishly.

"Well, well! I'll get it for you!" she exclaimed. "I'll be right back."

She was gone about five minutes, at the end of which she returned with a glass of warm milk, which she put to the old gentleman's lips.

"Have you read him the will?" she asked out of the corner of her mouth.

"No," answered Mr. Tutt. "I waited for you to come back. 'In the name of God, amen! I, Cabel Baldwin, being of sound mind and memory, do hereby make, publish and declare this as and for a codicil to

my last will and testament, which I otherwise confirm in all respects not inconsistent herewith:

"'First: I give and bequeath out of my personal estate ten thousand dollars each to the Metropolitan Museum of Art——'"

Slowly, carefully, Mr. Tutt proceeded to read through the document. It was impossible to tell whether Mr. Baldwin heard him or not.

"Do you understand what I have been reading to you?" asked Mr. Tutt at the end of the performance.

"Yes; it is a codicil to my will," assented Mr. Baldwin. "The codicil you have drawn for me to sign."

"Now," said the wife eagerly, "I will have the chauffeur come up and we can witness it." She hurried to the door. "Lydia! Send up Oscar!"

Almost immediately there was a sound of footsteps, and a man in livery entered.

"This is the other witness," explained Mrs. Baldwin to Mr. Tutt. "Oscar Boynton, our chauffeur."

Mr. Tutt arose and spread open the last page of the instrument upon the bedclothes in the old man's lap.

"This is the codicil to his last will and testament, which Mr. Baldwin desires you to witness," he stated. "He will sign first, and after him Mrs. Baldwin and yourself. You must both sign in his presence and in the presence of each other. Mr. Baldwin, do you understand this to be a codicil to your will? And do you wish these witnesses to attest it by signing their names?"

"Yes—yes," murmured the old man in the bed.

"Then," said Mr. Tutt, "write your name in the blank space at the foot of the paragraph beginning 'In witness whereof.'"

He held out the fountain pen supplied by the wife. But Mr. Baldwin did not seem to see it.

Mr. Tutt placed it gently in the fragile blue-veined right hand.

"Here!" he directed. "Below the words 'In witness whereof.'"

Mr. Baldwin's fingers closed over the pen. He appeared to be making an heroic effort to bring his mind to bear upon what was expected of him. Helplessly, like a child, he looked from the pen to Mr. Tutt and back again.

"Write!" ordered his wife icily.

"Write!" repeated the old man. "Yes, write!"

Dropping his chin toward the paper, he pressed down the pen and painfully began tracing the word "Cab——"

Mrs. Baldwin watched him hungrily. The strain was too much for her.

"Here!" she cried, going round beside him and, taking the trembling fingers firmly in her own, "I'll help you!" And she guided the pen along the paper until below the inscription "In witness whereof" appeared in straggling characters the signature of Cabel Baldwin.

Mr. Tutt blotted the name and removed the codicil to a table, where Mrs. Baldwin and Boynton each signed

it as a witness. Then he folded it and placed it again in the envelope from which he had removed it. Mr. Baldwin had fallen back on his pillow and closed his eyes, exhausted.

"What shall I do with the codicil?" asked Mr. Tutt. "Put it in my safe?"

"No," returned Mrs. Baldwin tartly. "You can leave it here. I'll attend to it."

V

Contrary to his wife's expectations, Mr. Baldwin did not die for a long time, but when at last he did, on that same day Lydia Baldwin left the house forever, and within the week after her father's funeral was married to Henry Holborn before a justice of the peace. It was on the afternoon of Lydia's marriage that the Widow Baldwin appeared at the offices of Tutt & Tutt and asked for the senior partner. He received her in silence, standing.

"Well," she greeted him, looking more vulturelike than ever in her weeds, "I guess it's time to start probating the will and codicil. Is there anything particular I have to do?"

Mr. Tutt did not invite her to sit down. Coldly he replied: "Mrs. Baldwin, I cannot undertake any business for you."

"What's the matter?" she demanded acidly. "Isn't my money as good as anybody else's?"

He shook his shaggy head.

"No," he returned shortly, "it isn't. A lawyer has some choice in the matter of clients, and I want no business of yours."

"That's pretty good!" she cried, flushing. "You were ready enough to act as my attorney the last time I called on you and asked you to draw the codicil. What's the matter? Are you scared of anything? Don't go back on me now!" she begged, changing her attack. "You can charge me what you like!"

"You may recall," answered Mr. Tutt sternly, "that on that occasion I specifically inquired for whom I was acting, and that you replied categorically that I represented your husband and not you. I drew a codicil and superintended its execution by my client at his request. I was paid for it. That ended the matter. I shall, of course, proceed at once to offer for probate the will in my possession, in which I am named as executor. In so doing I represent your husband's estate and not you. If you are legally entitled to anything, you will get it in due course."

She stared at him, open-mouthed.

"Get anything! Why, I get a couple of millions!"

"Do you?" tossed off Mr. Tutt coolly.

"You drew the codicil yourself! Unless you fooled me by substituting another paper!"

The old lawyer grunted savagely.

"Be assured, I did not."

"What's the hitch, then?"

"If you want to know, Mrs. Baldwin, that I will have nothing to do with you."

Mrs. Baldwin seemed to swell until her dimensions threatened to prevent her exit.

"Well, I never!" she exploded. "I never heard of such treatment!" She paused, swallowed and lost color. "If you've tricked me—put anything over—I'll ——" She dropped her shoulders limply, turning momentarily sick with apprehension. "Is there——" she gasped.

"Simply to relieve your anxiety," said Mr. Tutt coldly, "I will say that the codicil executed—or partly executed—in your husband's bedchamber isn't worth the paper it is written on."

"Nonsense!" she cried, losing all control of herself. "I know what's the matter! You've got cold feet! You're afraid to go on with it! You're scared they'll show Cabel had senile dementia or something—wasn't legally fit to make a codicil. Well, you might as well stick! Be as well hung for a sheep as a lamb. It would look fine, wouldn't it, for Ephraim Tutt to admit in court that he allowed a senile old man to execute a codicil when he didn't know what he was doing? Why, it would ruin you forever! All right, coward! There are plenty of lawyers who've got courage as well as brains. Some day when I've got millions in the bank you'll wish you had your share!"

Mr. Tutt gave a low chuckle. Reaching over to the cigar-box he selected the usual stogy and lighted it with deliberation.

"I remember you don't mind smoking," he remarked reminiscently, "or I shouldn't venture." Then as he exhaled a voluminous cloud of sulphurous vapor he added: "As I was saying, that document will never be probated. The only instrument of your husband's that is of any value is the one I drew six months after you married him, in which he leaves practically everything to his daughter, Lydia."

VI

When Surrogate Sampson entered the great court-room of the Hall of Records at half after ten the following Friday morning, he found it more than ordinarily crowded. Indeed, it seemed to him as if he had never before seen so many noted counsel sitting together in the leather armchairs at the long mahogany table whose marvellous patine had been polished by generations of distinguished legal elbows. The surrogate liked to see his court filled with the leaders of the bar, for it gave him a sense of importance and stirred his pride.

"Good morning, Mr. Philbrick!" he murmured genially as he bestowed his gown on the judicial chair. "Ah, Mr. Goodwin! And Mr. Lowenthal! What is the occasion of this illustrious gathering?"

Mr. Philbrick, Mr. Lowenthal, and the rest of the

constellation of juridical luminaries simpered and bowed in unison, and Surrogate Sampson, who did not expect any answer to his interrogation, since it had been purely hortatory, blew his nose with one hand, picked up the calendar with the other and cleared his throat.

"Matter of Baldwin?" he called out briskly.

Simultaneously the company of the elect before him arose and with military precision presented arms. So did several other rows immediately behind them; a cohort of office boys, clerks, assistants, and junior counsel, carrying bags, books, parcels, and bundles of papers, closed in behind in a compact body.

"Er—if Your Honor please!" began Mr. Philbrick, in his capacity of chief of staff, in an ingratiating voice, "this is the contested probate of the codicil to the last will and testament, offered coincidently, of the late Cabel Baldwin, a distinguished resident of this city, under which he gives a large percentage of his property to various public institutions, of which I represent one."

"Who appears in opposition?" inquired the surrogate over his spectacles. "I may as well get this straight from the beginning. There are so many of you!"

For a moment there was no response; then out from behind the jury box sauntered Mr. Ephraim Tutt.

"I appear for Mrs. Henry Holborn, who was Lydia Baldwin," said he quietly, "the daughter and only child of the deceased, the sole heir and next of kin, who is also the chief beneficiary under the will."

"Ah, Mr. Tutt," commented Surrogate Sampson, "I suppose you have duly filed your objections?"

"I certainly have!" answered the lawyer, and there was something ominous in his manner. "I drew the original will for Mr. Baldwin and am the executor named in it. I have offered it for probate—and so far as I know, there is no objection to it. Indeed, there can't very well be any, since unless the will stands the codicil which these distinguished gentlemen are offering—and to which I object—falls too."

"Quite so!" nodded the judge. "Let me see the will."

Immediately a clerk handed a paper to Mr. Philbrick, who in turn passed it to an officer, who gave it to an attendant, who duly delivered it to His Honor, while the throng round the table parted to allow Mr. Tutt to approach the dais.

"Well," remarked His Honor curtly, after glancing through it, "the will seems simple enough. The testator revokes all previous wills and after a provision in lieu of dower to his wife devises a large quantity of realty described specifically by metes and bounds to his only daughter, Lydia, whom he thereafter makes the residuary legatee of all his property, both real and personal. He names you as executor. The usual affidavits are before me, made by the attesting witnesses. Is there any reason, gentlemen, why I should not receive this will for probate?"

He looked along the table. Obviously in the nature of things there could be no opposition, for the reception of the codicil depended upon the acceptance of the will.

"I'll receive it for probate, then," announced the surrogate. "Now we come to the codicil. Who offers it?"

"I do," answered Mr. Philbrick, "at the request of the chief beneficiary and sole residuary legatee, the widow."

"Is she in court?"

Mr. Philbrick waved toward a figure behind him.

"Yes, Your Honor."

"Please step forward, madam. Perhaps it will be more comfortable if you sit here beside me in the witness chair." He bowed courteously.

Mrs. Baldwin, aggressive as ever in her habiliments of mourning, yet with a worried look superimposed upon the usual malevolence of her features, now drawn into the semblance of grief, took the seat indicated.

"Are you the widow of Cabel Baldwin, deceased?"

"Yes, I am," she replied aggressively.

"You offer for probate a codicil to his will?"

"Yes, I do."

"Let me see it, please."

Mr. Philbrick promptly handed up the document.

"H'm!" exclaimed His Honor. "This is a rather lengthy instrument. I'll not bother to go through it now." And he leaned back and began polishing his

glasses, in anticipation of an interesting morning. "What are the grounds of your objections to my admitting it to probate, Mr. Tutt?"

"Simply that the proposed paper is not sufficiently attested under our statutes," stated the lawyer solemnly.

The surrogate turned to the last page of the codicil, which lay on the desk before him.

"There seem to be two witnesses," he remarked, "—all the law requires."

"But one of them is the lady beside you, who under this codicil is made chief beneficiary and sole residuary legatee. As an interested party she cannot qualify—unless, to be sure, she is prepared to waive her legacy, which amounts to a quarter of a million dollars, besides the residue amounting to over a million," declared Mr. Tutt quietly.

Mrs. Baldwin had grown white. Defiantly she watched the surrogate as he now perused the codicil in its entirety.

"That seems to be so," he said with a puzzled air. "Mr. Tutt's point is perfectly well taken. There are only two witnesses to this propounded codicil, and one of those witnesses is undoubtedly an interested party; in fact could hardly be more interested. Madam, do you understand the situation? Under the law you can't qualify as a witness to prove the codicil unless you renounce your legacy; and if you don't qualify I shall have to reject the codicil, having only one witness, as

insufficiently attested. Extraordinary!" he added to himself.

There was a murmur of interest throughout the rows and a closer crowding together of the group of counsel before the dais. Mrs. Baldwin sucked in her cheeks.

Mr. Philbrick smiled conciliatingly in the direction of the bench.

"That is, of course, true," said he. "But we—that is, Mrs. Baldwin has arranged, after consulting with counsel, to waive her legacy and qualify as a witness."

"Is that correct, madam?" queried the surrogate, peering at her over his spectacles. "Are you willing to forfeit your legacy of two hundred and fifty thousand dollars, as well as your residuary interest, under this codicil if I admit it to probate?"

"If that's the law I guess I've got to!" she snapped viciously. "But I've been tricked—hoodwinked! All the same, the rest will get their money!"

The surrogate gazed bewilderedly at the cluster of attorneys. Then he turned to Mr. Tutt.

"Under these circumstances is there any reason why I should not admit the codicil after the witness has signed a written waiver and given her testimony? That meets your objection, doesn't it? Have you anything further?"

"Only that it would be an act of supererogation—productive of no result whatever—as far as this lady's benefit is concerned," replied the lawyer, and the court-

room became as quiet as a country churchyard at midnight. "Two years ago, at the request of Mr. Baldwin, I drew the will which you have just admitted to probate and in which, as you have observed, after a provision for his widow in lieu of dower, he left all his property to his only daughter, my present client. She is here. Please stand up, Mrs. Holborn."

There was a rustle to the right on the lower seat of the jury box as Lydia arose, pale as a ghost in her black dress. With her stood up a tall young man, as if to protect her from the stares of the spectators. The woman in the witness chair shot in their direction a single venomous shaft.

"Thank you," went on Mr. Tutt. "That will do. If Your Honor will refer to the instrument you will see that in it Mr. Baldwin describes himself as 'of the city of Fall River, in the State of Massachusetts.' That was his permanent legal residence, his domicile. He had been in business there all his life, had lived, voted, and paid his personal taxes there. He was merely taking a vacation and spending the winter in New York City when his wife died."

"He was previously married to another lady?" asked the surrogate.

"Oh, yes; for fifteen years," said Mr. Tutt. "Now all his property—both real and personal—with the exception of a comparatively trifling sum in a Fifth Avenue bank where he kept a checking account—is situated in

Massachusetts, the place of his domicile. And his estate consists almost entirely of various parcels of land and office buildings in Fall River, which he specifically bequeathed to his daughter, Lydia, in the will drawn by me, which has three witnesses as required by Massachusetts law. The schedules, which I have prepared, show that his personal estate amounts to less than fifteen thousand dollars."

There was a buzz of consternation from the lawyers about Mr. Philbrick, whose owl-like countenance wore an expression of dismay and wrath.

"Now," continued Mr. Tutt amiably, "even if this good lady with the laudable object of sacrificing the quarter million and her interest in the residuary which this codicil purports to give her—in order that these charitable institutions, represented by my friend Philbrick and his associates, and her manifold relatives and friends named in the codicil as legatees, may secure what is given to them—even if, I say, she renounces her legacy and qualifies as a witness, and, in consequence, Your Honor is enabled to admit the codicil to probate, there will be nothing out of which to pay the legacies given under it, for"—and he could not help a chuckle—"the testator has expressly directed in each instance that the legacy shall be paid out of his personal estate—and there isn't any!"

A wave of astonishment swept across the benches.

"But," began Mr. Philbrick pompously, "they—the

realty is more than sufficient to pay them all; and under the principles governing equitable conversion——"

"Oh, no!" contradicted the surrogate briskly. "Even if the codicil is probated it will not affect the real estate devised to the daughter under the will."

The woman in the witness chair swayed.

"I've been robbed—cheated!" she cried savagely, gritting her teeth.

"Please be quiet, madam," rebuked the surrogate. "We must have no scenes here."

"Anyhow," she declared, glaring at him, "as widow I'll take my third under the Massachusetts law! I'll get that much anyway!"

"That is for the courts of Massachusetts to decide!" returned the surrogate with asperity.

"That question won't bother them much," interjected Mr. Tutt carelessly. "For the woman sitting in that chair beside Your Honor is not the legal widow of Cabel Baldwin. She has a husband living—a railroad brakeman from whom she has never been legally divorced. I have here affidavits showing that he was never served in the divorce proceedings brought by her and upon which she must rely to establish the validity of her subsequent marriages. I say 'marriages,' for this is not her only matrimonial experience. She was wedded to two others of her patients who subsequently died; and, I may add, she inherited property from both."

The ex-nurse had half started from her seat. Mr. Philbrick had turned a bright pink.

"If this is so——" he began faintly.

"It's a lie!" cried the woman in a shrill voice. "An absolute lie! I am Cabel Baldwin's widow—and I'll prove it! I don't care what that old crook says!"

"Be quiet, madam!" shouted the surrogate angrily, banging with his gavel. "I will adjourn this matter for one week." Then he paused as he gathered the papers together. "One more question, gentlemen," said he with an expression of curiosity. "I should like to know who drew the codicil that is here offered for probate."

"I did," affirmed Mr. Tutt boldly.

There was a hiatus during which the only noise audible was the hysterical intake of the relict Baldwin upon the witness chair.

"You did!" exclaimed the surrogate. "And you now appear in opposition to it—contest the legality of your own work? That is a most astounding proceeding!"

"Exactly," answered Mr. Tutt, entirely unmoved. "I drew the codicil which this woman is now seeking to probate, and I superintended its execution."

"Knowing that she could take nothing under it?" persisted the judge.

"Knowing that she wouldn't get one red cent!"

Surrogate Sampson leaned back and removed his spectacles with amazement.

"Did you do this with the approval and consent of the testator?" he demanded.

Mr. Tutt smiled inscrutably.

"What passed between my client and myself at the time he executed this codicil," he replied, picking up his stovepipe hat, "is a privileged communication made in the course of my professional employment, which the law does not permit me to reveal!"

THE TWELVE LITTLE HUSBANDS

Alas, the love of woman! It is known
To be a lovely and a fearful thing.
—*Don Juan. Canto* 2, 199.

Señor Don Antonio Jesu Maria Perarra y Castadandos daintily wiped his mustache upon the frayed napkin that went with Señor Amontillado's table d'hôte, leaned across the table behind the green curtain that separated the alcove from the public dining-room and sadly implanted a kiss upon the cheek of the lady opsite him—the Señora Isabella Ramirez.

"*Adios!*" he whispered in a choking voice. "*Adios*, my beloved. I go—I go to face my accusers! But thou wilt visit me in my dungeon? Thou wilt strengthen me to defy the inquisitors?"

"How canst thou doubt it, dear one!" she answered, fondly clasping his head to her shoulder, thereby endangering the claret bottle, which, however, she dexterously rescued with her disengaged hand. "It will at worst be but a few weeks before thou wilt be free! And then—then——"

"Then we will fly!" he echoed. "*Adios!*" He tore himself away and with an eloquent gesture ducked behind the curtain. Señora Ramirez wiped her eyes and

sighed deeply. Exertion and emotion were both difficult for her.

Señora Ramirez had mass, and though she was probably also fat, she gave an impression less of obesity than of muscular strength backed by indomitable will. She was tall and broad-shouldered, with generous bosom and substantial hips, and her neck and arms were like the pillars of the temple. She was large, with the expansive masculine largeness of the female Latin, and the slight touch of masculinity was intensified by the tiny black mustache which adorned her upper lip. But for all her solidity she was a fine figurehead of a woman—one hundred and ninety-five pounds of Hispanic beauty—a lady of power and of passion, whom no one would approach carelessly and to whom no one would make love without encouragement. Her husband, Señor Ramirez, was attenuated, elderly, and more or less of an invalid. Her lover, Don Antonio, was also small, but he was elegant, dashing, debonair—a *caballero*.

There are certain philosophers who contend that just as pity is akin to love, so the tender passion is largely composed of the protective instinct. The emotion most women feel for their husbands, they say, is chiefly maternal, and hence big women do not hesitate to mate with little men and seem to feel no embarrassment about it. How far the converse of this theory is true remains to be seen. To what extent does the protective instinct enter into the feeling of men for women? Does it draw

the males instinctively toward the weak and fragile, the clinging vines, the ultrafeminine, rather than toward the strong, vigorous, and efficient specimens of womankind? Does it lead men naturally to select as the objects of their affections women smaller than themselves, about whose waists they can thrust the protective arm without too much reaching? Or whom they can embrace without standing on tiptoe?

On the other hand, may not the mysterious passion we call love originate in impulses so subtle that all such crass details as form and feature, height, weight, breadth, thickness, and cubic contents play no part in it? Read on, and as you read ponder this question, for upon it the temperamental tragedy which we are about to relate may shed some light.

Don Antonio, jauntily swinging his Malacca stick, threaded his way among the tables, dodging past the cash register operated by Señora Amontillado. Whatever loose cash he had in his pockets he needed for other purposes. Isabella could—gladly would—pay for their luncheon, which had been a substantial one. So instead of paying he ostentatiously examined the pet turtle in the aquarium on the steam radiator, helped himself to a toothpick, stepped to the sidewalk, and glanced about him.

Across the street three men stood under a gas lamp. They were evidently waiting for him, since the moment he made his exit the smallest of the three, whom he

recognized as Señor Ramirez, said something to the others and all began to stroll toward him. Don Antonio calmly awaited their approach. As they reached the sidewalk the little man, who wore an immense gray muffler and yellow gloves, suddenly pointed to him with his cane and shouted in a high-pitched voice: "There he is! That is he—Antonio Perarra y Castadandos! I identify him to you! Arrest him!" And, becoming more excited, he began to dance furiously up and down. "Murderer!" he chattered. "Assassin! Traducer! Thou shalt pay! I will have thy body and thy purse! Thou shalt not escape! They will cast thee at once into the *calabozo!* Seducer! Betrayer of my home! Ya!" he screamed.

Don Antonio viewed him calmly, much as he would have regarded an overexcited fox-terrier. Then, removing his toothpick, he placed his left thumb-nail beneath the edge of his right upper incisor and snapped it twice at Señor Ramirez.

"Tck!" contemptuously. Tck!"

Señor Don Antonio Perarra y Castadandos came of a very old and distinguished family which, unfortunately for him, no longer possessed any of the usual material concomitants of nobility. Indeed, he was so far reduced that only by resorting to the vulgarities of commerce could he keep the she-wolf from the door of his hall bedroom. With pain we are obliged to confess that

Don Antonio was in the cork business. By cork alone did he manage to keep afloat. The corks did not even come from his own cork forests. The Castadandos no longer had any—if indeed they had ever had any. In moments of hilarity Señor Ramirez had sometimes jocosely remarked that the Castadandos had less use for corks than almost any people that he knew—had no use at all for them, in fact, except to pull them out and throw them away. At this witticism Don Antonio would laugh heartily and pour out another goblet of Señor Ramirez's red wine, while Señora Ramirez would glower at her husband as if he were a tarantula.

But even if Don Antonio would have had difficulty in demonstrating his noble birth at the consular office or even in identifying himself sufficiently to secure an invitation to dinner at the Spanish Embassy in Washington, to say nothing of establishing a claim to any particular piece of real estate in Aragon or Cordova, nevertheless he was a *caballero* of the *caballeros*—and a noble specimen of the present generation of *hidalgos*. Gentility was exuded by his every movement. Bernardo del Carpio had nothing on him. He wore the straw hat, which in the course of numberless seasons had acquired a color rivaling that of his cigarette-holder, with the haughty air of a Castilian and carried his threadbare overcoat across his arm as it were a velvet cloak concealing a rapier.

One would have thought that such a man would have

married young; indeed, that he might have married, had he so chosen, again and again. Yet Don Antonio, charming though he undoubtedly was, remained single. The answer was on the tip of everyone's tongue in the neighborhood. Don Antonio was known to be desperately in love with the Señora Isabella Ramirez, the victim of a hopeless but none the less interesting passion. It is true that the cynics hinted that as Señor Ramirez, her husband, was a large importer of wines there might be method in Don Antonio's madness. But though the importer's friendship might indeed have been of some slight material value to Don Antonio—and always assuming further that Don Antonio was that kind of man—it is hard to see how falling in love with Isabella Ramirez would have helped the cork business. Indeed, one would think that he might on the contrary easily have feared being shipwrecked upon the rock of romance and, corks or no corks, going down forever.

But apparently he had no fear.

Don Antonio, in spite of the gossip of wagging tongues, continued to dine every Thursday at Señor Ramirez's house and to lunch there every Sunday and, as his friend was habitually afflicted with rheumatism, he regularly took the Señora Isabella out for a walk—either to see the bird pictures at the American Museum of Natural History, the collections at the Metropolitan Museum of Art, or the animals in the Zoo at Bronx Park—and brought her safely back to Señor Ramirez by seven

o'clock. The Señora Isabella liked best to go to the Natural History Museum because the cases holding the stuffed birds are in a wing rather far apart and it is quite bosky in there, with seats where two people can sit close together and hold hands without much chance of being seen—for the other visitors naturally are looking at the birds.

Señora Isabella and Don Antonio used to sit thus for hours gazing with a far-away expression at thousands of scarlet flamingos having the time of their lives upon miles and miles of beach all covered with nests. They especially liked the flamingos because they were at the very end of the wing and hence many of the visitors never got that far. Señor Ramirez generally did, however, and used to watch them from behind the pelicans, and when they got back he would ask them innocently where they had been and smile in a pleased way when they told him that they had gone to the cathedral or on a bus ride to Grant's Tomb. Then he would beg Don Antonio almost effusively to remain to supper, but Don Antonio never would. Yet always he came on Thursday evening.

Don Antonio seemed to have a genuine affection for Señor Ramirez. He was younger in years, but his greater knowledge of the social world made him an entertaining and stimulating companion for his older friend, who found getting about difficult on account of his rheumatism. Had it not been for the suspicions of Señor Ra-

mirez regarding Isabella the friendship would have been one of his greatest satisfactions. Even as it was, the two saw each other regularly and on Thursday evenings played an interminable game of chess, which seemed to Isabella to have begun at a time so far distant in the past that they had all forgotten when it was. That it should not continue into eternity she was fully resolved. Both she and Antonio had agreed that the situation was impossible. Señor Ramirez might live on indefinitely, and when he ultimately died, if indeed he ever died, they would both be old.

"Courage, *amigo!*" Señora Isabella had whispered to Don Antonio in her deep contralto, seizing his hand in a powerful clutch as they sat before the nesting flamingos. "It is the only way. Better that both of us should be dead than eating our hearts out. Pah! Ramirez will last ten—twenty—who knows how many years!"

"Thou art right, dearest heart," Don Antonio had answered. "A great love justifies all things."

"On Thursday then?" she had murmured tragically, almost as if she were ordering an execution. "Thou knowest where the powder may be bought?"

"On Thursday, beloved," he had assented. "Leave all to me. I will slip it into his demi-tasse after dinner. He will have an apoplexy before morning."

Their hands sealed the customary oscular pledge forbidden by the presence of several bird lovers near by. Señor Ramirez, hovering behind the pelicans, hobbled

quietly away to his waiting taxicab. Though he had heard nothing, he had seen enough, he believed, to justify all his suspicions. That evening he would tell Don Antonio in no uncertain terms what he thought of him and expel him from the *Casa Ramirez* forever. They had lied to him! They were having an affair! Philandering there in the dark! Grant's Tomb! He squirmed with humiliation and fury. But the next moment he became unutterably sad and depressed. He was really very fond of Don Antonio and would be lonely without him. Moreover, at times Isabella got distinctly on his nerves. He was in a terrible quandary. He could not afford to be made a fool of; but, after all, he did not wish to be unjust to his friend!

This had been a month before. Thrice—upon three consecutive Thursday evenings—had Don Antonio placed sugar of lead in the coffee of Señor Ramirez as the latter limped to the corner of the room to unlock the humidor containing his choicest cigars. And each time his host had innocently quaffed the beverage. Yet nothing particular had occurred. In fact, upon the first occasion nothing had occurred at all, and the guilty pair decided that the dose must be increased. Accordingly Don Antonio had doubled the amount and Señor Ramirez had swallowed some of it. That night he had been slightly indisposed and the next morning suffered from a headache, but otherwise the poison had had no obviously injurious effects, although, as Don Antonio

explained, it might still be working latently and at the proper time accomplish the victim's intended dissolution. The suspense, however, was almost too much for them, and Isabella, being a woman, began to exhibit symptoms of nervous strain. Upon the third Thursday they quadrupled the dose. As usual, Ramirez rose after the dessert, reached for his cane and hobbled to the humidor, and Don Antonio, sitting beside Isabella at the table, emptied the entire contents of his phial into her husband's favorite blue coffee cup ornamented with yellow and gilt butterflies.

"Here, *amigo*," said Ramirez on his return, tendering Don Antonio an immense cigar wrapped in tinfoil. "Here is the last of my private reservation of the crop of 1904."

Then he settled himself comfortably, while Isabella, bedewed with a sweat of horror, watched him lift it to his lips and drink half of it.

"*Nombre de Dios!*" he ejaculated, looking into the cup. "What has got into the coffee? You must really speak to Maria!"

Then he turned color and put his hand quickly to his stomach.

"Oh!" he groaned.

"What is it, my darling?" inquired Isabella agonizedly. "Do you feel unwell?"

For answer Señor Ramirez rolled up his eyes and suffered his head to loll upon his shoulder.

"Permit me to go for the doctor!" exclaimed Don Antonio sympathetically, springing to his feet.

"Yes—by all means!" echoed Isabella in deep solicitude.

Together they carried Señor Ramirez to the lounge. That night he was violently ill. The dawn found him weak, pale, helpless—with slight reminiscent pains in his abdominal region. But by afternoon he had eaten a plate of onion soup, a *chile con carne* and a *tortilla*, had drunk a pint of claret, and never had felt better in his life. In fact, he was completely cured of the attack of rheumatism from which he had been suffering.

But the conspirators in their excitement had forgotten to dispose of the remainder of the cup of coffee, and the doctor when he left the house had taken it away with him. On Saturday Señor Ramirez learned definitely from chemical analysis that he was suffering slightly from lead poisoning, and that probably only the fact that he possessed the constitution of an ox had saved his life.

Then events had taken place with great rapidity, and in a sequence most disconcerting to Isabella and Don Antonio, for Señor Ramirez had not died as arranged, and hence the situation was one for which they were entirely unprepared. Flight would have been tantamount to confession. It was vital for them both to face whatever music there was going to be with as much equanimity as possible and to ape a nonchalance which

should avert suspicion. Isabella found her husband curiously uncommunicative. He made no comment upon his illness and did not disclose the nature of the doctor's report. It was uncanny! Instinctively she recognized that trouble was brewing. Moreover, the only servant they kept had suddenly and mysteriously disappeared, without being paid, and they had been obliged to get in a waiter from Señor Amontillado's restaurant.

Don Antonio still went cheerfully about his business, but both Isabella and he knew that it was probably only a question of hours or even of minutes before the purchase of the poison would be traced and he would be charged with the attempted murder of Señor Ramirez; she, perhaps, as his accomplice. So each made ready for the ordeal to come, the man after his kind and the woman after hers. His was the manner of a grandee of Spain; who would fight for a lady's honor to the death or blithely suffer it for her sake.

Thus when he made his exit from Señor Amontillado's his course had already been determined. He had learned his part, and naught remained but to act it out like the *caballero* and patrician that he was.

So—"Tck!" went Don Antonio, snapping his tooth with the nail of his left thumb. "Tck!"

Yet under the corset that he wore beneath his yellow-and-brown-checked waistcoat his heart was pumping like a machine-gun.

"I am ready!" he announced, bowing in the direction of Señor Ramirez's companions. "Do not agitate yourselves. I am entirely at your service!"

"Some case, chief—what?" remarked "Deacon" Terry, *The Tribune's* star reporter, to the district attorney as he showed him the front-page feature of a rival daily. "This ought to put your office on the map! It's a real story! Nan Patterson and Harry Thaw left at the flag!"

The headlines read:

ATTEMPTED POISONING OF WEALTHY SPANISH MERCHANT

Arrest of Don A. J. M. P. Castadandos, Spanish Nobleman and Society Leader, Friend of Señora Ramirez.

The Honorable John Henry Peckham examined the illustrations with the eye of an expert. From the middle of the page an astonishingly slender maiden yearned forth at him with eyes of a bereaved gazelle, her hands folded demurely in the lap of a ballgown of the cut fashionable at the time of the Vanderbilt Ball.

Señora Isabella Ramirez, beautiful wife of Señor José Pedro Concepcion Ramirez.

Peckham regarded her with interest.

"Yes, yes!" he agreed. Then he turned to a picture in which Señor Ramirez was portrayed upon the point

of stepping dangerously off a curb in the company of two detectives, their three right legs prominently poised in unison in mid-air.

"Who's that little chickadee-dee?" he grunted, pointing to the reproduction of a juvenile Don Antonio in tennis flannels made from a photograph taken in Barcelona before his emigration in 1889.

"That's the murderer," grinned Terry.

"Alas! Poor brother!" commented the D.A. "He must have taken a lot of something before he got his nerve up to commit homicide! What sort of a case is it—really?"

"It looks all right," answered Terry, accepting a cigarette. "Anyhow, it's a good yarn. Old Ramirez is a wholesale wine and liquor importer and stands 'way up in New York Latin society—whatever that is. He has, as you perceive, somewhat of a wife. He had also, as you further perceive, some sort of a friend. Paolo and Francesca—Spanish-American triangle stuff. But—and here's the point! Do the beautiful Isabella Villa Villa Perfecto and her Don Antonio Intimidado Corona hire the Pearl Button Kids or the Gas House Gang to punch the lights out of the venerable Ramirez? Does the gay Spanish cavalier beat out the brains of the doddering husband with his guitar or puncture him with an automatic? Not so! In the best historic manner of the Borgias he hies him to an apothecary and purchases a malignant poison to kill—as he poetically puts

it—a rat, and then dumps it in his victim's coffee. Only —and there's the merry mockery of it—being old and tough and used to the *table d'hôte espagnole*, the victim refuses to die! Instead—he hustles off and has his coffee analyzed."

"Motive, premeditation, deliberation, and malice aforethought!" nodded Peckham.

"It ought to be a cinch," the Deacon assured him. "They say both the apothecary and his assistant positively identify the prisoner as having bought sugar of lead on two separate occasions."

The D.A. looked appreciative.

"'Sweet, sweet, sweet poison for the age's tooth!'" he murmured. "The papers will eat it alive! If it's as simple as all that I don't see why we shouldn't put it on before Recorder Williams and try it right off the bat."

"I wish you would," approved the Deacon. "We're as dry as the Sahara out in the pressroom, and there hasn't even been a Syrian murder in six months. The public have forgotten there's such a thing as a district attorney's office. This will keep us going for a couple of weeks anyhow. All the preliminary matter, you know—interviews with Señor Ramirez Claro Invincible and Señora Isabella Pippinetta Colorado—famous murder trials of the past—Buchanan, Harris, Molineux et al.; historic stuff about kings, Spanish or otherwise, murdered by their wives or mistresses and the latter's

lovers; popular articles in the Sunday sup. on poisons, ancient and modern—preventive measures taken by state and municipal authorities to preclude purchase; the trial; the conviction; the sentence; the—er—execution! We couldn't ask anything better, and we'll guarantee to deliver you the entire Hispano-American vote, conservatively estimated at one hundred and forty nine."

"All right!" nodded the D.A. "Tell Mooney I want to see Fitzpatrick; I guess I'll let him try it. He's a good exhorter."

"Why don't you try it yourself? It's a big case," suggested Terry. "You ought to get into the ring occasionally."

"Who's defending him?" meditatively inquired Peckham.

"Tutt & Tutt," replied the Deacon. "And old man Tutt says he's going to win in a walk!"

"How on earth can he think that?" demanded the D.A. "But of course he always says he'll win in a walk!"

"And sometimes he does!" warned Terry. "Look out for him, chief!"

The district attorney hesitated while he lit another cigarette.

"I guess I'll think it over a bit," he decided. "You needn't tell Mooney anything—except to have the papers sent in to me."

"You better not take any chances," advised the veteran reporter. "Meantime I'm going down to find out if Mr. Tutt will make a statement about the nature of his defense."

"A statement! A statement!" repeated Peckham. "A lot you'll get! Tutt's the noisiest clam in the business!"

"I observe by the papers," remarked Tutt, as they foregathered at tea-time about the small round table presided over by Miss Wiggin in Mr. Tutt's office, "that our firm has been retained to defend Don Antonio Castadandos. Is that correct?"

"Quite so!" replied his partner. "We have not only been retained but what is more to the point—we've been paid in advance."

"Does that indicate that we have or have not got any defense?" smiled Miss Wiggin as she arranged the cups.

"It looks bad to me," said Bonnie Doon, pulling up a chair. "However, as the first duty of a lawyer is to see that he is properly paid, I am glad to see that Mr. Tutt has not been remiss."

"He hasn't said how much he got!" retorted Tutt. "Make mine strong, please, Miss Wiggin. According to the press it's quite a snappy case and our client hasn't got a chance."

"Anyhow there'll be a heap of advertising in it!"

commented Bonnie. "Just look at that!" He unfolded the frontal display of two afternoon editions.

"Let me see!" cried Miss Wiggin. "How exciting. So there's a woman in it!"

"There is," replied Mr. Tutt grimly, carefully amputating a stogy and unsuccessfully attempting to light it from the alcohol lamp underneath the tea-kettle.

"I should say so!" ejaculated Bonnie. "Some chick? Just look at her, Miss Wiggin."

The managing clerk paused in her functions of hostess long enough to study the youthful reproduction of Señora Ramirez.

"She's quite beautiful—I should say. Did he try to murder the husband on her account?"

"That's what they claim," answered Bonnie. "Fed poison to him three times. They've found the apothecary that sold it to him."

"Great Cæsar!" whistled Tutt. "No wonder we're paid in advance."

"Will someone contribute a match?" asked Mr. Tutt disconsolately. "This stogy——"

"It's just like all the others," retorted Miss Wiggin. "I don't understand how you can bring yourself to smoke such things!"

"Habit, my dear, habit!" he replied. "To me their aroma is more exquisite than that of the rarest of Habanas!"

"Well, what is our defense?" demanded Tutt as he received his cup. "Attempted suicide?"

Mr. Tutt shook his head mysteriously.

"That," he returned, "you will learn at the trial."

The chief duty of any lawyer—next to that indicated by Mr. Doon of being promptly paid—is to be non-communicative about his client's affairs. In this Ephraim Tutt, after a lifetime of experience, was particularly skilful. For he had learned that most priceless of all lessons, that to be silent is by no means to be successful in concealment. Not for nothing had the district attorney referred to him as "the noisiest clam in the business." The diplomatist who achieved fame by being able to remain silent in seven languages was a child in subtlety compared to Mr. Tutt. He never apparently had anything to conceal at all. Any knowledge he had belonged to anybody who desired it. He would discuss his cases with the utmost freedom but without imparting one jot or tittle of information. His cardinal principle was never to remain silent, for he had discovered early in his career that silence is indeed golden —to an astute interlocutor. And yet he never made a misstatement. He was a voluble sphinx, who never by silence gave assent.

"Piffle!" said Tutt peevishly. "What's the use——"

"May Mr. Terry come in?" asked Willie from the doorway.

"Certainly! Certainly! Delighted!" answered Mr.

Tutt. "Show him right in," while the others looked at one another significantly, anticipating the skirmish sure to follow between the wily old practitioner and the shrewdest reporter attached to the Criminal Courts Building.

"Deacon" Terry—origin of said name of Deacon unknown—was an old hand and wise in his generation. Once and again he had pulled off a stunt of his own that had made him momentarily famous. He respected and had a pronounced affection for Mr. Tutt—never betrayed his confidence—always played fair with him—but he was a newspaper man, first, last, and always—and he had come for a specific purpose. So as he crossed the threshold of the office he threw up his hands above his head and exclaimed jocularly: "No quarter!'

"Have a cup of tea?" invited Miss Wiggin.

"Thanks," he replied, "as long as it's fully understood that I'm in the camp of my enemies. No confidences! This isn't murder—it's war!"

"As you like, as you like," agreed Mr. Tutt. "Now I wonder what on earth you can be down here for? Can you guess, Bonnie?"

"Can't imagine!" said Mr. Doon blandly. "Perhaps Deacon saw something in the papers about that Spanish case——"

"Naturally I want to find out what your defense is going to be in the most sensational case in years. Is

it going to be a denial of the purchase of the poison? They have two reputable witnesses?"

"What would you advise?" countered Mr. Tutt blandly.

"It would somewhat depend on whether your client gave his correct name and address at the time of purchase," replied Deacon. "It's good tactics, isn't it, to deny everything?"

"Not if it can be proved," said Mr. Tutt. "*Did* he give his correct name and address?"

"I don't know. Of course motive is very important. If Señora Ramirez wasn't such a beauty it would be difficult for Peckham to prove why Castadandos would want to kill Ramirez—but a woman like that!"

"Is she so wonderful?" inquired Mr. Tutt innocently.

"Don't you think so?"

"Her picture in the paper would make her seem so. Still, you know how little they usually resemble the original."

Mr. Tutt exhaled a wallowing ring of blue-gray smoke.

The Deacon chuckled.

"The fact that your firm is retained by Señora Ramirez is rather damaging, isn't it?" he asked carelessly as he handed back his cup for more tea.

"I haven't seen any such statement as that in the papers," mused the old lawyer without betraying the slightest sign of concern. "If she had, perhaps——"

"Oh, I don't know that she has!" hastily added the

Deacon. "But when a lady visits the house of her lover's lawyer late in the evening, one naturally—eliminating the idea of a rendezvous—jumps to the conclusion that she is interested."

He emptied his cup and put it down in the most matter-of-fact way imaginable. It was a shot in the dark but, as sometimes happens, it hit a cat.

"Well," retorted Mr. Tutt, "supposing she has retained us?"

"It wouldn't make for much harmony in the family," hazarded the Deacon. "Aren't you willing to make any statement regarding the nature of your defense? The public would naturally be pleased to know that Don Antonio was innocent. I'd be glad to help you in creating sentiment for him and all that! Why not frankly admit that Don Antonio loves Señora Ramirez? By heck! Why not have her take the stand and testify that she did it—and not Castadandos?"

"Perhaps I will," replied Mr. Tutt, stroking his long chin. "Perhaps I will!"

"By the way," concluded the Deacon, "what does the lady look like? Does she actually to-day at all resemble this picture, which I have ascertained was made in 1905?"

Mr. Tutt suddenly realized that somehow or other he had betrayed himself; just how he could not precisely determine.

"Deacon," he answered sternly, "Señora Isabella

Ramirez looks no more like that illustration than—than a Brontosaurus!"

Terry regarded him suspiciously. Mr. Tutt gave every indication of sincerity.

"Well," queried the Deacon as he rose and picked up his hat, "where does that let you off?"

"You'll have to work that out for yourself," growled Mr. Tutt.

The Deacon twirled his bowler between his fingers.

"After all," he remarked blithely, "that isn't official. And maybe you are no judge of feminine attractions. For the rest of us—for the public at large—Señora Isabella Ramirez will remain one of the most beautiful women in the world—until we know different!"

Deacon Terry, the dean of New York's Criminal Fourth Estate, like most experienced reporters, was a cynic in that he realized that the lust for publicity is in most men more potent than the love of women or the lure of gold. He was prepared to condone those slight distortions of exactitude whereby every actor in any drama, however mild, becomes under the artistry of the write-up man a "leading" something—a "leading" society man or woman, a "leading" butcher, grocer, or laundryman—at the very least a "leading" citizen. The Deacon discounted ninety per cent of what he read and all that he heard, and he had been known to assert that there was no such thing as truth, since it was in-

capable of human interpretation. Moreover, he held strongly to the thesis that just as most people are highly complex in their natures and neither wholly idealistic nor wholly selfish, so their motives are apt to be intricate and involved.

That a love motif was the key to the Ramirez mystery—if it could be called one—seemed obvious, yet to the Deacon there was something about the whole affair that gave it an air of artificiality. Was it the ludicrous, almost ridiculous, personality of the characters? The simple-minded crudity of the methods employed, that suggested the days of Lorenzo the Magnificent? Or was it the inability of a Yankee newspaper man to grasp the ferocity of the fires latent in the Latin temperament? The Deacon did not take much stock in temperament; he thought it was worked much too hard.

Besides, he had never covered a case where there prevailed such a general air of nonchalance. Mr. Tutt did not seem to feel the least anxiety over the outcome, and the Deacon knew the old lawyer well enough to feel convinced that he was not acting. As for Don Antonio, it almost seemed as if he enjoyed being in the Tombs. Queer! What sort of game could they all be up to? A bluff like that would be simply too preposterous. No! There was something. Yet the Deacon's doubts did not prevent him from playing the case up for all it was worth.

Soon a wave of sympathy, fostered by the sob sisters

in the evening editions for Señora Ramirez and Don Antonio, swept over the city. This, however, did not disturb the district attorney. The case was absolutely impregnable—cast-iron; the evidence incontrovertible.

"Don't you think so yourself, Deacon?" he demanded the day before the trial as Terry lingered on after the daily five o'clock interview accorded to the press.

The Deacon pressed his cheeks together with his thumb and middle finger and hesitated.

"Well?" repeated the D. A. a trifle impatiently.

"To tell you the truth, chief," answered the Deacon, "this blooming case has got my goat. It looks like a cinch, but—it's too good. I have a hunch you may find that it's loaded."

"Nonsense!" snapped Peckham, annoyed, because he valued the Deacon's opinion. "What makes you feel that way?"

"Don't know!" replied Terry. "I guess it's the way that little jackanapes of a Don Antonio snaps his thumb-nail under his front teeth and says 'Tck!'"

Meantime, all remained quiet in the offices of Tutt & Tutt. Never had such an atmosphere of peace been known there before upon the eve of a legal battle.

"Seems to me you're taking things pretty easy," observed Tutt as he came in just before tea-time on the eve of the combat. "I don't see that you've done anything at all in the way of preparation."

"I haven't," answered Mr. Tutt. "There's nothing to do."

"In that case I don't suppose you want any help," replied the junior.

Mr. Tutt laid down the *Law Journal* and took off his glasses.

"Yes, I do," he said. "I want you to get the jury."

"Me?" inquired Tutt. "Why, I thought you liked to get acquainted with 'em that way yourself."

"I do, usually. But this time I'm going to keep out of sight until the case gets really started."

"What sort of jury do you want?" asked his partner.

Ephraim Tutt regarded his legal other half with solemnity.

"I want," said he thoughtfully, "a jury of middle-aged married men—old enough to have exhausted the possibilities of the joy of living—depressed, anxious, worried-looking men—and I want 'em small. Not one over a hundred and ten pounds."

"What do you expect me to do?" jeered Tutt. "Weigh 'em?"

"I'm quite serious!" the elder partner rebuked him. "Quite serious! Remember—no bachelors—nothing over one hundred and ten, and the lighter the better—the mournfulest pick of the panel. Do you follow me?"

"No!" retorted Tutt. "I don't! But I understand that you want a jury of feather-weight crape-hangers—twelve bantam benedicts."

"Precisely!" nodded Mr. Tutt. "I want twelve middle-aged adventurers in matrimony who look as if they hadn't a friend in the world."

"It's too bad I can't serve!" remarked Tutt with feeling.

When Mr. Tutt the following afternoon forced his way through the crowd in the court-room, and took his seat beside the freshly barbered Don Antonio at the table reserved for the prisoner and his counsel, he would have been captious indeed had he felt dissatisfaction with the jury which Tutt had selected. With due observance of his senior's field orders the junior member of the firm had breezily challenged without explanation every unmarried talesman and all those others who in any way showed by their appearance that their lives were anything but a burden. Moreover, they were all diminutive—like Don Antonio. In fact, they resembled a lodge meeting of undersized undertakers.

The court-room was jammed. There hadn't been a genuine high-class murder case for years! Even the steps leading up to the bench were occupied by highly interested lady friends of His Honor, who simply would not be denied the privilege of attendance. Four cartoonists with full-fledged easels unblushingly caricatured for their respective journals the judge, the jury, the defendant and his counsel. An extra force of court officers had been installed to preserve order, and the

only persons allowed access to the room were a constant succession of small boys who, waiting breathlessly while the reporters dashed off trenchant comments upon the progress of the trial, pounced upon them as completed and rushed to the telephones below. The court-room smelled like a steam-heated menagerie. Not a window was raised even the fraction of an inch, for the judge had an aversion to drafts. But it was a great occasion and District Attorney Peckham, appreciating his opportunity, had condescended to leave his official pedestal and personally to enter the arena.

He was a celebrated trial lawyer, was the Honorable Peckham, and his articulation was the wonder and envy of the criminal bar. Each syllable fell from his thin lips a perfect thing, meticulously separated from its predecessor. His language was beautiful, majestic, full of dignity. No door to Peckham was such a base thing as a mere door; it became a "means of egress"; the poor old earth was always "God's green footstool"; a primrose on the river's brim a primrose never was to him, but "a delicate blossom nestling modestly in retirement upon the grassy banks of a placid stream flowing gently to the sea." This in his moments of sentiment, pathos, or reflection. But when it came time in the carefully ordered course of forensic events to assail the cowering defendant the Honorable Peckham's whole nature seemed to change. His eyes flashed fire, his dilated nostrils quivered with righteous anger, and his voice trembled

with horror and rose in a wild shriek of denunciation.

"And so, gen-til-men!" he concluded upon this occasion, dropping his voice to an impressive whisper, "at the con-clu-sion of this, the most im-por-tant pros-e-cution of my term of of-fice, I shall ask yeou, much as my nature re-volts at the in-car-cer-a-tion of a fel-low hu-man be-ing, to find this would-be as-sas-sin guilty of at-temp-ted murder in the first de-gree!"

There was a murmur of applause as the Honorable Peckham sat down. But the defendant and his attorneys had listened undisturbed by his invective and they continued to listen with equanimity as one by one the witnesses were called, sworn, and gave their testimony. Mr. Tutt interposed not one objection; the witnesses told their stories without interruption. The serene progress of the trial was marred by no acrimonious encounter between counsel. Even Peckham began to feel slightly worried. The thing was going too well, too darn well! He wished Tutt & Tutt would hurry up and unmask their batteries.

But Tutt & Tutt didn't. Unhindered, they permitted each witness to wend his way as he chose along the path of Peckham's verbal dalliance, to paint Don Antonio as black as his imagination permitted. Witness after witness told of the attentions showered by Don Antonio upon Señora Ramirez; the druggist and his clerk both identified him as twice having purchased the poison

later discovered in the coffee; and Señor Ramirez grandiloquently described the actions of the viper who had warmed himself at his fireside in order to steal the affections of his wife. And while Señora Ramirez, her face purple with fury, glared malignantly at him across the inclosure he depicted the scene in the Natural History Museum, where from behind the pelicans he had observed the pair as they sat in the recess adjoining the flamingos.

Finally Peckham sprang the surprise which he had so carefully concealed. From the distant confines of the State of New Jersey he produced the missing waitress who had so strangely disappeared immediately after the poisoning of Señor Ramirez, and from her he elicited the momentous fact that on three consecutive Thursdays she had observed Don Antonio place something in Señor Ramirez's cup and that, being of a somewhat suspicious nature, she had carefully preserved each of said cups with the liquid therein intact. These cups—the telltale contents of each of which had been analyzed by the chemical expert retained by the State—were now offered in evidence—three innocent after-dinner coffee-cups, of turquoise blue, adorned with yellow and golden butterflies.

"Looks like nothing to it!" muttered Charlie Still to the Deacon. "He's half-way up to Briarcliff already!"

The Deacon regarded him placidly.

"The ball is still rolling," he remarked enigmatically. "You can make your bet!"

"The People rest," announced the Honorable Peckham with a gesture toward the jury as if to indicate that the People had earned the right to.

The Recorder looked down at Mr. Tutt.

"The case is with you," he said pleasantly.

Mr. Tutt rose and felt in his waistcoat pocket for the old-fashioned turnip watch that he always carried.

"Your Honor," he said in an unconcerned manner, "it's twenty minutes past twelve. No doubt the jury are tired. Might I suggest an adjournment until after lunch—say, two o'clock?"

"How long do you expect to be with your side of the case?" asked the court.

"Oh, I think about twenty minutes will be enough," replied Mr. Tutt.

A gust of astonishment blew across the benches.

"What!" ejaculated the Honorable Peckham. "Twenty minutes! Well, if the trial is going to wind up as soon as that he can lunch as long as he likes!"

"No doubt Mr. Tutt knows his own case," smiled the court. "I will adjourn until two o'clock."

Deacon Terry, a curious flicker playing about his mouth and eyes, sat immovable, parting the struggling throng as a projecting bowlder divides the current of a brawling river.

"I'm on!" he whispered delightedly to himself as the crowd surged about him. "I'm on!"

Two o'clock came and the corridors emptied themselves into the court-room again. The crucial moment had arrived. The newspaper men, the district attorney's staff, the distinguished representatives of the Spanish colony, the melancholy jury, and the recorder reassembled in their places. Last of all placidly strolled in Mr. Tutt. The atmosphere was tense with expectation. It was the zero hour of the trial. And the crowd breathlessly awaited the instant when Mr. Tutt and Don Antonio would go over the top together.

At the left of the inclosure the dignified Señor Ramirez sat with his hands upon the head of his cane, the living presentment of a betrayed and rheumatic husband, his eyes fixed entreatingly upon the jury. Behind the press table Señora Ramirez, her figure tightly compressed in a costume of yellow and black satin, her hands gripping the arms of her chair, her abundant bosom pulsating with emotion, leaned forward intently. There was that about her suggesting the tigress about to be deprived of her cub, ready to spring upon the first who should lay a hand upon it; and the resemblance was heightened by the fact that from time to time her upper lip, with its thin line of black, twitched nervously. She was the incarnation of indomitable will—irresistible; a formidable human battle-ax, a man-woman!

"We are ready to proceed, Mr. Tutt," suggested the judge.

Mr. Tutt coughed, pushed back his chair, and obediently rose. If the crowd had expected any burst of forensic oratory it was disappointed, for glancing along the double line of dejected countenances before him, the lawyer merely remarked in a casual tone:

"My friends of the jury: This is a very simple case—very simple! No man can be convicted of a crime which he did not intend to commit. My client, Don Antonio Castadandos, is accused of attempting to murder his old friend—I might almost say his benefactor—Señor Ramirez. He never attempted to murder him—never wished to harm him. But I will let Don Antonio tell his own story. Don Antonio—please take the stand."

Don Antonio, resplendent in a new purple suit with a black velvet waistcoat bound with pink braid, straightened, flecked a bit of fluff from his lapel, twirled his mustache and jauntily followed the officer to the witness chair. He walked proudly, for in ten minutes the words about to fall from his lips would be flashing under the rolling ocean to Madrid, Bilbao, Barcelona. His name would be tossed from mouth to mouth in the public squares of Avila, of Segovia, of Salamanca. For twenty-four hours at least the story of his romance with Señora Ramirez would fill the columns of the Spanish newspapers, together with the announcement of the jury's action. It was his supreme opportunity. For one

crowded hour he would stand upon Fame's tottering pinnacle.

As he stood there preening himself before the jury Señora Ramirez, the woman for whom he had sacrificed everything, fastened her eyes passionately upon his face. But he did not look at her. Rather he sought the glance of Señor Ramirez, his erstwhile friend, whose death he was accused of seeking to encompass.

Don Antonio bowed in courtly fashion to the recorder, murmuring the word "Excellentissimo," bowed to the jury, and then magnificently to the multitude.

"Is he not a *caballero grande!*" whispered Señora Amontillado.

And all the Spanish colony without exception felt that even if he were a would-be murderer he was nevertheless a gallant specimen of the patrician caste of ancient Spain, and was doing them proud.

"*Caramba!*" replied Señor Amontillado to his señora. "He is truly a *caballero!* What a pity that he must be kept in the *calabozo!*"

Deacon Terry meanwhile was scribbling furiously, tearing yellow sheet from yellow sheet, and crunching it into the fists of the waiting messengers.

Don Antonio with an air of amiable condescension gazed about the room, according proper recognition to his various friends among the audience, gave a final pat to his mustache and crossed one glossy boot daintily over the other.

"Don Antonio—or perhaps I should say Mr. Cas-

tadandos," began Mr. Tutt, also in the courtly manner of old Castile, "you are charged with having attempted the murder of Señor Ramirez."

"I—kill—Señor Ramirez!" protested Don Antonio lightly. *Dios!* Nevair!"

He smiled at the jury as if the suggestion were too utterly preposterous to be entertained for a moment by anybody—even a juryman.

"Did you attempt to kill Señor Ramirez?" went on the lawyer.

"Nevair, I did not!" replied Don Antonio calmly.

"Did you, in fact, entertain any ill feeling for Señor Ramirez?"

"I? Nevair! I lova-ed him—I lova him now!"

Señor Ramirez half started from his chair, brandishing his cane.

"Assassin!" he shouted contemptuously. "Thou—lova-edst me! *Nombre de Dios!*"

"It is true, nevertheless!" affirmed Don Antonio, as if asking the jury considerately to overlook Señor Ramirez's outburst.

Mr. Tutt waited until the excitement had somewhat subsided and then proceeded:

"Did you put acetate of lead, or any other poison, in the coffee of Señor Ramirez?"

Don Antonio shot his cuffs and stroked his mustache as if giving the question the consideration it might be supposed to deserve.

"Yes," he replied in a judicial fashion, "and *no*."

"Come, come!" interrupted Peckham. "That's no answer. You either did or you didn't!"

"Pardon, Señor!" answered Don Antonio patiently. "Thou art in error. I am correct in saying that from one angle of eyesight I did place poison in the coffee-cups of Señor Ramirez, but from another angle of eyesight I did not."

The recorder raised his brows and looked over his spectacles at Mr. Tutt. Was the lawyer going to permit the defendant to confess his guilt?

"Kindly explain yourself to the jury!" directed Mr. Tutt with entire unconcern.

Señora Ramirez's face quivered with agonized bewilderment. Why in heaven's name should her Antonio admit that he had given poison to her husband?

"Excellentissimo—and señores," said Don Antonio, turning to the judge and then facing the jury, "it is true that I gave poison to Señor Ramirez—three times, just as has been testified, but"—and he uttered the words defiantly—"I each time also administered the proper antidote—sulphate of soda!"

"Holy Mike!" suspirated the Honorable Peckham. "That's the weirdest defense I ever heard of!"

"I could do nothing else," explained Don Antonio. "The excellentissimo and señores will appreciate my position most unfortunate. I could not repulse the advances of Señora Ramirez—for she was a lady, and I a

nobleman of Spain. But I did not lova her! *Nombre de Dios*, no! My love was all for my old *amigo*, Ramirez! Struggle as I would I became with her more and more involv-ed. I feared of her love the very intensity! I could not go back! And I could not go on!

"At last she demanded that I poison her husband in order that I might marry her. If I did not, she swore, she would kill both herself and me. What could I do? I did not want to die. Neither did I want to marry her. Fate might not permit me to live peacefully without her, but, *por Dios*, I could not possibly live *with* her!

"Could one love a woman like that? Four times my size! *Caramba!* An Amazon! A female rhinoceros—*un' abâda! Un' elefante!* I trembled—for she filled me with terror. Her very love smothered me. I could not escape from her! She pursued me like the blood-dog in the 'Cabin of Uncle Thomas'!

"She hovered over me like the vulture. I was exhausted. I dared not refuse when she conducted me to the chemist for the poison. And she—ah!—she waited outside to observe that I bought it. Twice we did it. But afterward I went secretly to another chemist and purchased the antidote. Ah, what relief! Some angel must have told me what to do! Then happily—with entire satisfaction—I administered the poison before her very eyes! Thrice did I! Never did she suspect for an instant that I——"

A weird cry suddenly emanated from Señora Ramirez.

But it was quickly submerged in another. Señor Ramirez had struggled to his feet and, abandoning his cane, had staggered across the inclosure toward the witness chair.

"*Amigo!*" he shouted, holding out his arms, while tears of joy streamed down his mottled cheeks. "How could I have doubted thee! Forgive me! Forgive me! Embrace me, Antonio!"

Don Antonio descended gracefully from his platform in the Hall of Fame, and clasped Señor Ramirez convulsively to his bosom.

"I forgive thee, *amigo!*" he answered graciously. "I cannot blame thee for what thou hast done. Thou knowest women—*this* woman!"

"Here, you two! Sit down! Take your seats!" ordered the recorder brutally, and the two *caballeros* disentangled themselves and reluctantly resought their places.

The Honorable Peckham beckoned furiously to Fitzpatrick, his assistant.

"Where's old Horowitz, our expert? What got into him, anyhow? Why didn't he tell you there was an antidote in the stuff?"

Mr. Fitzpatrick disappeared hastily, returning just as the tableau of reconciliation had been concluded.

"Horowitz says he's sorry, but that you only told

him to look for poison. He filtered the coffee in each cup, and got a heavy black powder which proved to be sulphate of lead—found the poison all right—and didn't go any further."

"Well, now he can go all the way to hades!" growled the Honorable Peckham. "This ain't a case, it's a joke."

From the reporters' table came a noise like the scratching of a thousand hens. A ceaseless stream of small boys tore to and fro between it and the door.

The Señora Amontillado wiped her eyes spasmodically.

"How beautiful!" she exclaimed brokenly to her husband. "I knew that he must be innocent—a man like that!"

"Bah!" retorted Señor Amontillado rudely. "You women are all alike!"

"That is the defense," finished Mr. Tutt mildly. "I have my own chemist, who will testify that the compound administered was practically harmless. In any event it is clear there was no homicidal intent. Moreover"—his eye searched the jury significantly—"my client acted under duress—actual physical fear. The district attorney may cross-examine."

But the Honorable Peckham's feet had been swept from under him. The witness had admitted everything; there was nothing to cross-examine him about. Don Antonio had confessed and avoided, ducked, side-stepped

—leaving the prosecution helplessly hanging in mid-air. The district attorney roared a few questions at him, which Don Antonio answered with the utmost punctilio. He even conceded his amorous dallying with Señora Ramirez beside the flamingos.

"That is all!" lamely ended the Honorable Peckham, sitting down with mingled feelings of wrath, disgust, and chagrin, fully realizing that the prosecution had made a fool of itself, and that he was himself largely to blame for not having taken the Deacon's hint. "Go on! Call your expert!"

So Don Antonio gave place to Mr. Tutt's chemist, who proved to be no less a person than Professor Brannigan, of Columbia University, and a fellow member of Mr. Tutt's at the Colophon Club. It was also the fact that he was a member of the famous "Bible Class," held in the card-room every Saturday night, where they always played without the joker and ended with a round of hundred-dollar jacks, but this he kept to himself. What he did testify to was that he had so greatly enjoyed Mr. Tutt's account of his client's homicidal adventure that he had volunteered his services as an expert for the defense and, having borrowed Professor Horowitz' samples, had quickly satisfied himself of the truth of Don Antonio's story. Sugar of lead would remain in solution when dropped into a cup of coffee, but would be precipitated into lead sulphate, and sink to the bottom of the cup in a heavy black powder, if sodium sulphate

were added, which would correspondingly be transformed into acetate of soda. So long as the contents were not thereafter stirred up anybody could drink the coffee without evil consequences, if he did not mind the taste or swallow any of the dregs. He had examined the precipitate which Professor Horowitz had collected from the bottom of each cup and found it to be lead sulphate, and he had analyzed the fluid taken from each and found it in every case to contain acetate of soda. Q. E. D. That was all there was to it. Simple as rolling off a log. And he winked an enormous wink at the twelve little husbands in the jury-box and shook like Santa Claus in "The Night Before Christmas."

"That is the case!" bowed Mr. Tutt. "I have nothing to say. I will leave the matter entirely to the jury."

The district attorney looked pathetically at the bench. The recorder was trying to hide a smile behind a huge copy of the "Criminal Code," which he seemed to be studying assiduously.

"Oh—well!" stammered Peckham, flushing, "I'll do the same. We both submit on Your Honor's charge."

The twelve little husbands in the box raised their chins expectantly.

"Gentlemen," began His Honor, "I will first expound to you the law governing the various degrees of homicide." And he did. Then, closing the statute book, he cleared his throat and went on: "This is an unusual case. The law requires an intent to kill—without it

you cannot convict the defendant of attempted murder. If you believe the defendant's story he had no such intent. At most he could be convicted only of assault in a lesser degree. Do you wish me to charge the law of assault, Mister District Attorney?"

Peckham hesitated.

"No," he answered finally, wisely perceiving that the glory of his office would not be heightened by bringing down a mosquito while pursuing "*un' elefante.*" "I prefer to go to the jury on the murder count."

"Then," continued His Honor, "if you have a reasonable doubt whether the defendant intended to cause the death of Señor Ramirez by administering the poison you will acquit him."

'But there isn't any doubt!" interrupted a thin voice from the back row. "If he'd wanted to kill him he wouldn't have given him the sulphate of soda, too, would he?"

His Honor smiled affably.

"That is for you to say, gentlemen. You may retire."

The uxorious twelve filed slowly out, but the door had hardly closed behind them before it opened and they came in again.

"How say you?" demanded the clerk. "Do you find the defendant guilty or not guilty?"

"Not guilty!" answered the foreman eagerly.

And all twelve nodded their confirmation.

"The defendant is discharged!" declared the court.

Don Antonio, having first made a low obeisance in the direction of the recorder, seized Mr. Tutt's hands in both of his and covered them with kisses.

"*Gracias! Gracias!*" he cried and, turning to the jury: "*Gracias, señores! Gracias!*"

Then his eyes rested upon the massive form and determined features of Señora Ramirez. Coldly he returned her stony glance. A faint smile curled his lip. Placing his thumb-nail beneath one of his front teeth, he snapped it toward her.

"TCK!"

THE CLOAK OF ST. MARTIN

St. Martin of Tours, best known for having given his cloak to a beggar, is also the patron saint of drunkards. This is due to the accident of his having been born upon the 11th of November, the "vinalia," or Feast of Bacchus, which is in consequence now known as "St. Martin's Day." From his name is derived the French verb "martiner" (to be drunk) and the old English expression "to be Martin-drunk."

I

Mr. Ezra Scraggs, the antiquated scrivener who occupied the wire cage in the outer office of Tutt & Tutt, glanced up at the clock over Willie Toothaker's desk, sighed, laid down his pen, and turned to put on his fur coat. Scraggs and his coat were equally ancient, equally decrepit, and both inseparably connected with the past of Ephraim Tutt, for even before Samuel Tutt was, Scraggs had been.

The coat, now a patched and shiny garment of a vaguely green color with a collar of spiky reddish brown fur, had in his police court days been the pride and glory of young Ephraim Tutt, marking him out, together with his tall stovepipe hat, from the vulgar herd of criminal practitioners who swarmed in the Essex Market Court. That was thirty-seven years before. Scraggs, even then not so young as Ephraim Tutt, but thirty-seven years younger than he was now, had been haled

one cold winter's afternoon to the bar of justice charged with being drunk—"Martin-drunk."

"Please be easy with me, judge!" pleaded the half-frozen Scraggs, "I know I'm drunk! But I'm down and out! I've no place to sleep. I've had nothin' to eat for two whole days. I pawned my overcoat a week ago. A man threw me a dime and I bought a drink just to get warm!"

"No defense!" snapped the judge. "Three dollars or three days."

The officer was about to lead Scraggs away when young Lawyer Tutt laid three dollars upon the desk. Something of refinement in the prisoner's face had appealed to him.

"I'll pay your fine. Come along with me," he said; and when they were once outside, "Tell me the truth. Are you actually down and out? And do you want a chance?"

Scraggs nodded, shivering, the tears blurring his weak eyes.

Mr. Tutt took off his fur surtout and threw it over the derelict's shoulders.

"Well—I'll give you one!" he declared, clapping him upon the back.

That was thirty-seven years ago, and since that day Scraggs had never been separated from Mr. Tutt, nor the coat from Scraggs. In some strange, mystic way the coat symbolized to the drunkard the new life opened

to him through his employer's sympathy. In it he not only felt protected from the scornful and accusing glances of those who had known him before he had met Mr. Tutt, but shielded as by an armor of righteousness from temptation. Somehow it seemed to carry with it Mr. Tutt's influence for good, strengthening Scraggs' feeble resolution. Wearing it he realized that any unbecoming or ungenerous act would be a reflection upon the giver and a betrayal of his confidence. It was indeed a wonderful coat, and it was quite a long time before Scraggs succumbed to the lures of Satan.

But as the years went on, and the coat, in spite of every care, became spotted and frayed and worn, it seemed to lose something of its virtue. The irresistible craving, which had been his downfall at college, reasserted itself and Scraggs, leaving the coat carefully hanging in his wardrobe, would disappear for a few days, to return pale, bleary-eyed, and repentant. His career was marked like the course of a boat-race—with a succession of empty rum kegs each flying the white flag of surrender. But by that time he had become a fixture. Tutt & Tutt would no more have thought of closing the door of Scraggs' wire cage against his return than Noah would have considered fastening the shutters on the outside of the ark to deny admittance to the homing dove, and the junior partner asserted that when Scraggs died, although he might look forward to being pickled, they were going to have him stuffed.

When prohibition came he still managed to get it—somehow.

He was bent, bald, decrepit; capable when sober of totting up columns of figures accurately and copying in an uncannily neat, if slightly tremulous, script such documents as the purse and station of the firm's more favored clients might justify. He also kept the books—as well as he could, in view of Mr. Tutt's outrageous carelessness in failing to make any record of the many loose vouchers which he was accustomed to carry around in his pocket, and filled out and cashed wherever he happened to be. Yet even this serious failing did not diminish Scraggs' adoration for Mr. Tutt, who, in return, had a great pity for the old fellow's moral struggles and a whimsical appreciation of the influence the coat seemed to exert over him.

Whenever the scrivener was unaccountably absent, Mr. Tutt would glance into the cage and, if the old fur coat were not there, would remark reassuringly, "Scraggs is all right. He's got his coat!"

Whereas the sight of it hanging there, in its owner's absence, inevitably aroused fears as to his condition—like a storm signal indicating the imminence of wet weather.

As Tutt had once put it rather neatly: "Scraggs' coat on that peg is the crepe on the door-knob of his sobriety."

And he wore it winter and summer—his magic coat that made him invisible to the powers of evil.

But—having upon this occasion, as we have already said, looked at the clock, laid down his pen, and turned to put on the coat—he now thought better of it and decided that, on the whole, there was no particular use in going outside for his lunch when he could do just about as well at the cafeteria in the basement. Accordingly, he left the coat on its peg and, having locked the door of the cage, put the key in his pocket, and fixing his eye severely upon Willie Toothaker said: "Don't you dare go out until I come back!"

"Don't you worry 'bout me!" retorted Willie. "I can take care of myself all right—and a good deal better'n some. Have you got Mr. Tutt's checks ready for him to sign?"

Now it so happened that the scrivener had been engaged in making out Mr. Tutt's personal checks at the very moment he had looked at the clock, and that they were not quite done.

Scraggs therefore did not reply. It was none of that boy's business whether he had them ready or not.

"Better take your coat with you!" warned the annoying urchin.

Scraggs glared at him, turned his back, and made his way to the door. There was no need for him to take his coat with him—for he was only going down-stairs in the elevator to take a quick snack at the luncheon-counter, with maybe a glass of malted milk. Malted milk! "Milk for babes!" "A little wine for thy stomach's sake" would be more like it. Involuntarily,

as he closed the outer door behind him, he ran his tongue around the inside of his mouth. How long was it since he'd had a drink? Let's see—three weeks! And then only a glass of lager. That didn't count anyway, and it had been home-brew at that—less than five per cent. The one overpowering emotion that ever swept over his old body, the one irresistible lust of his desiccated flesh, unaccountably possessed him as he stood there, tingling at his fingers and toes, drying his throat and mouth.

Suddenly he sniffed, stiffening like a pointer dog. He heard a voice.

"Mr. Scraggs, isn't it? Remember me? I was just comin' in to see you. My name's Gill—the firm used to be Annis and Gill. You did quite a lot of business with us at one time, I believe."

A thickset man was standing before him, one hand extended in fellowship, the other holding by the string a paper covered package. A subtle, soul-satisfying odor seemed to emanate clandestinely from the stranger, and to impregnate the circumambient atmosphere.

"Yes, yes!" answered Scraggs tremulously. "Of course, I remember you very well!"

"Ever need anything in our line now? Are you all looked out for?" inquired Mr. Gill amiably, as if not desiring to intrude himself upon the preserves of others.

Scraggs' tongue clave to the roof of his mouth. His throat seemed to be on fire. Where, oh where, was his magic coat? He steadied himself with a hand against

the door jamb. Then he made an heroic effort and shook his head.

"No, thank you. I don't need anything!" he answered feebly. Mr. Gill nodded affably.

"I got something particularly good," he said, tapping the package. "The real thing—Teague and Teague. Got fourteen cases off the last liner that came in. I can let you have it—delivered in your house or office—for one hundred and twenty dollars."

Scraggs' head was swimming.

"No!" he protested thickly. "Really——"

Unconsciously he moistened his lips. Mr. Gill saw it.

"Listen," said the bootlegger. "Tell you what I'll do. I'll slip you a sample pint right now for nothing. And then, in case you decide you'd like a case, I'll be around later in my car—say at half-past five—with the goods. Anyhow I'll drop in here just to find out. If you don't want anything, it'll be all right. No feeling at all!"

He had backed Scraggs into a corner, and, before the scrivener quite realized it, had forced a small flat bottle into his not unwilling hands. A case? No! But this was a gift! After all, Gill had taken enough out of him in past years to warrant that slight deception. Besides —possibly—sometime—he might—— .

"All right," he answered. "If you shouldn't find me here when you come you'll know I don't want anything."

"Right-o!" agreed Mr. Gill. "Well, see you later, maybe!"

The elevator picked him up and he was gone. Scraggs stood motionless and ecstatic, with the bottle in his hand. Then he walked slowly down the hall toward the back stairs.

He returned to the office shortly before two o'clock, elated, transfigured, and trailing clouds of alcoholic glory. An hour before he had been depressed and disgruntled, had felt old and tired. Now everything was completely altered. The short pint had done its work. Thirty-seven years had dropped off him in almost that number of minutes. It was a new Scraggs entirely who sauntered back into his cage—debonair, nonchalant, witty, or so he seemed to himself.

"Life in the old dog yet!" He'd take no lip from that young Jackanapes! No, sir! He fumbled the key to the cage, finding it a trifle difficult to focus his vision through the golden nimbus of happiness surrounding him, and at first, after he had climbed up on his high stool, there seemed to be many more papers and one or two more pens on his desk than before lunch. But presently he was hard at work again filling out Mr. Tutt's checks. He hummed softly an ancient melody—vintage of 1857.

"Woof!" sniffed Mr. Bonnie Doon coming in to make his afternoon report to Samuel Tutt, who had charge of the accident cases. "There is a peculiar odor of sanctity in this office!"

"So I have observed!" replied the junior partner, eyeing Scraggs sternly, "if 'observed' is the proper verb under these circumstances."

"If I hadn't heretofore acted as Scraggs' attorney, and the Court of Appeals hadn't expressly held that for a lawyer to disclose the fact that his client had a whiskey breath was revealing a confidential communication, and hence a violation of Section 835 of the Code of Civil Procedure"— he grinned—"I might say something."

"And you'd say a noseful!" remarked Tutt disgustedly. "By the way, has any fool court actually gone so far as to hold that an alcoholic breath was a confidential communication?"

"It has," answered Bonnie. "'Any fact ascertained from or regarding one's client in the course of one's professional employment.'"

"That's on a par with their refusing to allow a layman to testify that in his opinion another man was drunk," snorted Tutt. "As if anybody needed a medical license to find that out!"

"'Your nose knows,'" agreed Bonnie, wrinkling his.

"Anyhow, I'm willing to take judicial notice that Scraggs is brilliantly illuminated," said Tutt. "If he gets too gay, tell Willie to turn the key on him."

II

"Oh, Jehoshaphat!" exclaimed the Honorable Ephraim Tutt, an hour and a half later, hurling his stub book across the room and through the door leading into the outer office, and strewing a hundred or so of cancelled vouchers over the floor. "Oh, temperature! Oh, Moses! Oh, hell!"

He leaned back in his swivel chair and shook a scrawny fist at the dingy bust of Plato in the corner.

"*You* never had to balance a check book!" he asserted. "Only that fact could account for your monumental calm!"

The exit of the stub book was followed by the immediate advent of Miss Minerva Wiggin holding the missile in her hand.

"Why this display of temper?" she inquired reprovingly. "You don't wish me to infer that you can't add —do you?"

"I decline to incriminate myself!" he answered with a wry smile. "Isn't it nearly tea-time?"

"Wil-lee!" called Miss Wiggin over her shoulder. "The tea things!"

"The trouble is," confessed her employer, as Willie wheeled out the old gate-leg table from behind the screen, "that half the time there aren't any figures there at all!"

"Honestly, that old man's carelessness in regard to

money matters is enough to bring down a bank president's gray hairs in sorrow to the vault," declared Tutt, strolling in.

Mr. Tutt sipped the tea handed him by Miss Wiggin, and then fumbled in the long coffin-shaped box for a stogy.

"You haven't enough faith," he asserted, "in either the honesty or the accuracy of mankind. Therefore you make me spend hours every month going over my check books, comparing the cancelled vouchers with the bank statements, and trying to make them conform—and they never have yet—in thirty-seven years! They never will either!"

"Not so long as you draw checks without entering them on your stubs, or forget to put down the amounts!" she retorted. "A child could rob you!"

"But no child would want to rob me!" he protested gently. "I should hate to go through life expecting to be taken advantage of or cheated, in some way, at every turn! I'd rather lose my money than my belief in human nature."

"Then why do you get into this stew every month?" asked Miss Wiggin.

"Because you insist that I shall do so, my dear!" he lamented.

"Pooh!" remarked Tutt, laying down his cup and lighting a cigarette. "He knows well enough that there's a point where any man will yield to temptation, and

that everybody—including banks—makes mistakes! So he tries to add up his figures and simply finds he can't! He's just lazy, that's all!"

"Nonsense!" answered Mr. Tutt. "I could add up the figures on my counterfoils perfectly well if I wanted to—and if there were any. I can add as well as you can, Tutt! And anyhow, they use adding-machines in the banks. Machines don't—can't—make mistakes! I never heard of a bank making an error yet, in all the thirty-seven years——"

"You wouldn't know it if they had," retorted his partner. "You acknowledge you never yet succeeded in balancing your own check book. No wonder, either, when you go wandering round town all night like a 'nit-wit,' without a cent in your pocket, and then borrow a blank check from the night-clerk at the Astor and cash it on the Century Roof! Criminal negligence—that's what it is! You deserve to lose your money!"

"When I lose any it will be time enough for you to talk!" replied Mr. Tutt stiffly. "Meanwhile——!"

"Meanwhile you'll go on signing every check that's shoved at you without looking, and have St. Vitus' Dance, delirium tremens, and senile dementia the first of every month, simply because you won't take the trouble to make a note of what checks you cash away from the office, to fill out the stubs of those you draw when you're here, or to sign your name on any of 'em so anybody can read it."

"I write as legibly as any of you!" replied Mr. Tutt with dignity. "Anyhow the bank has no difficulty in reading my signature, and, after all, that's the important thing, isn't it? As for filling out my stubs—Scraggs does all that for me. If occasionally I draw a check outside—why, I usually remember the amount."

He winked mischievously at Miss Wiggin, who made a face at him in return, and then proceeded to pick up the scattered vouchers, which she placed upon his desk in two neat piles.

"There!" she said. "In that pile are the cancelled vouchers, returned by the bank with last month's statement, and in this pile are the checks Scraggs has just drawn for you to sign in payment of your bills that came in the first of this month. Now be a good boy, and look them all over carefully."

"Look 'em over fiddlesticks!" retorted the old man in pretended wrath. "Not much! What do I pay Scraggs for? I refuse to look at that infernal bank statement again. I don't care what it says. Take it away. I'd rather go bankrupt. As for those other checks, I suppose I've got to sign 'em, but I really don't see why Scraggs or Willie shouldn't do it for me."

"He's incorrigible!" grumbled Tutt as Miss Wiggin rinsed out the cups and called Willie to put back the table. "But some day something may happen——!"

"Crepe hanger!" shouted his partner indignantly.

"Get out of my office! Here, Minerva! Hand me those checks! How's that for a John Hancock?"

And the old lawyer affixed his name to the topmost of the pile with a flourish worthy of Mr. Spencer himself.

Mr. Tutt was not peculiar in his distaste for the details of elementary bookkeeping, which is shared by most professional men. Who of us does not contemplate with dread the monthly comparison of the bank's statement with our own—up to that moment—supposedly accurately ascertained balance? Why is it that we who faithfully and even cheerfully perform most of the routine duties of our humdrum lives, including our preposterous "daily dozen," find it difficult, if not impossible, to bring ourselves to fill out our check stubs and add up the amounts upon the counterfoils? To do so requires no knowledge of bookkeeping or accountancy. It demands only accuracy, which involves only the ability to add. Yet when a professional man keeps his own accounts, his books will almost inevitably reveal inaccuracies in addition. His check book refuses to synchronize with the bank balance. Both can't be right, but his own error is lost in a mass of detail and, after poring over his accounts for an hour without result, he throws up his hands in despair, concludes that the bank is probably right, and accepts its figures, although—as some of us know—banks do sometimes make mistakes.

III

As the afternoon wore on the benign effect of the Teague and Teague wore off, leaving Scraggs more depressed than ever and tortured with a devouring thirst. The taste of the whiskey had roused in him a sleeping lion that seemed clawing him to bits. It seemed as if he and the lion were caged in there together. Mr. Tutt had signed the checks and handed them to him on his way out of the office, and now the scrivener kept doggedly on at his monthly task of placing each one with its accompanying bill in a properly addressed stamped envelope. There were a lot of them, and everybody had left the office, as he had intended that they should, long before he finished. Mr. Gill was coming at half-past five with the case of Teague and Teague, and although Scraggs knew that it was impossible for him to pay for it, he nevertheless did not wish to lose his hold on the bootlegger, who, after all, was an old friend. Meantime the menagerie inside him grew more and more ravenous. Maybe Gill would let him have another pint! Scraggs kept on folding the bills, inserting the checks, and laboriously addressing the envelopes. He did not stamp or seal them in the cage, however. To lick the mucilage under the circumstances would have been too desperate a torture. He would wait and moisten the lot with one fell swoop of Willie Toothaker's sponge.

He had just finished addressing the last envelope when Mr. Gill entered.

"Well, Mr. Scraggs!" he said, good-naturedly. "How about it? Shall I bring up that case? It's right down in my bus at the bottom of the freight elevator. I'm practically giving it to you for one hundred and twenty, but you're an old customer."

Scraggs was suffering an excruciating agony. The lion's claws were deep in his viscera. He swallowed, finding difficulty in replying to Mr. Gill—all of which Mr. Gill duly observed. This time the latter held no package in his hand.

"I'm sorry," Scraggs answered at length in a husky voice; "but I really can't afford the money." He did not have the nerve to ask Gill if he ever let anything go retail—broke a case.

"Only a hundred and twenty!" repeated Gill encouragingly. "Last you forever!"

He sauntered casually through the offices, glanced into the chamber sacred to Mr. Tutt, and stood looking through Miss Wiggin's window, giving the poison time to work.

Meantime, Scraggs sat rigid at his desk, his bloodshot eyes hypnotized by an oblong piece of paper which he now for the first time perceived lying inconspicuously one side of the blotter—a check bearing the almost undecipherable signature of Mr. Tutt to the order of Jno. E. Watts for one hundred and twenty dollars! One

hundred and twenty dollars! The precise amount. He experienced a contraction of the larynx and a slight numbing of his motor centres. One hundred and twenty dollars! Just the price of a case! How had he happened to omit to put the check in its proper envelope? He ran his finger through the pile, found the one addressed to Jno. E. Watts, opened it, and discovered there was a check in it already for one hundred and twenty dollars! He must have drawn two checks for the same bill! He remembered now that Watts was Mr. Tutt's grocer, and the Watts check was the last one he had drawn before going out to lunch. He had duplicated it on his return. Everything had been looking double about that time.

A wicked but wonderful and fascinatingly clever scheme slowly formulated itself in his mind. He could indorse Watts' name on the back of the check and give it to Gill in payment for the whiskey. The bootlegger could, of course, cash it on the strength of his own indorsement. He, Scraggs, would alter the stub—mark it "cancelled" or "void." At the end of the month he could abstract the check itself from among those returned from the bank without Mr. Tutt being any the wiser. There would be nothing to show that any such check had ever been issued!

A chill ran along his spine and a dampness collected behind his ears. A cinch! The only possibility of detection lay in the consequent failure of Mr. Tutt's

balance to agree with that of the bank—but this could be disregarded, since the two never balanced. Checks were always turning up which Mr. Tutt had forgotten entirely. The old lawyer rarely looked over his returned vouchers, but, should he do so, and even should he notice the second Watts check indorsed and cashed by Mr. Gill, there would be nothing to arouse his suspicions, since the signature would be genuine.

Even that situation, harmless as it probably would turn out to be, could be obviated just as he planned, by removing the check from the bundle and destroying it before handing the bank statement over to his employer. Every evidence of irregularity would be wiped out, except the bank's debit charge of one hundred and twenty dollars on its statement for which there would be no corresponding voucher. That discrepancy would not, however, necessarily involve him, since the voucher might have been lost or mislaid at the bank, and so not included with the others. If any question arose it would naturally be assumed that the missing check was one of those irresponsibly cashed by Mr. Tutt upon some one of his nocturnal rambles about town. Scraggs' woozy brain grasped all these angles in an instant; they were in his line of business. The lion tore at his vitals, roaring in his ears, drowning the voice of conscience. He must satisfy it—quench its thirst!

With an astonishing facility he reversed the check, and wrote swiftly across the back, the words "Jno. E. Watts."

"All right," he said, nonchalantly; "you don't mind a check, do you?"

"Not if it's good!" laughed Mr. Gill, taking it. "Who's this Watts?"

"Mr. Tutt's grocer," answered Scraggs. "I was just going to mail it to him, when he came in himself and asked for cash. Rather than have all the bother of cancelling the check and charging it off, I had him indorse it. If you'd prefer the money I'll go down-stairs and get it for you at the bank. No, I can't either, at this hour—five-thirty."

"I don't want cash," answered Gill. "I guess I can take a chance on Ephraim Tutt's signature for a hundred and twenty dollars. Where'll you have the stuff?"

There was no place in Scraggs' tiny bedroom to conceal even a phial from the watchful eye of his landlady—another bright idea occurred to him.

"Bring it up here!" he said.

IV

There were times during the ensuing month when Scraggs achieved a blurred sort of happiness. These were the evenings when, under a pretense of having work to do, he stayed on at the office and, locking himself in after the departure of the Lithuanian scrubwomen, surrendered himself to the consolation of the Teague and Teague. Yet no sooner did he, on these occasions,

take down his old fur overcoat and put it on than he invariably began to experience such pangs of contrition as to make his life almost unendurable. These usually lasted throughout the night, and until he got safely back into his cage the following morning. From that time on habit would reassert itself, and he would go through the motions of his various duties with an appearance of calmness, which in reality concealed sickening apprehension.

For he could not bring himself to look Mr. Tutt in the face. With the others in the office he affected a strange and unbecoming bravado. All sensed something the matter with the old man. They had always looked upon him as one already dead, and this galvanic return to life under an unseen stimulus had something grotesque and even terrible about it.

As the days passed he became, during his intervals of sobriety, more and more fearful lest in some unexpected fashion his crime should be revealed. Every casual remark, every look, exchanged between Tutt, Willie Toothaker, Miss Sondheim, Miss Wiggin, or Bonnie Doon seemed charged with significance. Any reference to a bank statement made him nearly swoon. He pictured his guilt discovered, the officers of the law summoned, himself locked in a prison cell—"The Tombs!" At such times the wire cage in which he sat became the symbol of the dock in the criminal court in which he would eventually be tried and hear his doom pronounced.

He particularly feared Miss Wiggin. Her eye seemed to be in every place. As for Willie Toothaker, the gibes and taunts of that young imp, which heretofore he had regarded as but the harmless vaporings of an adolescent mind, now appeared to Scraggs as laden with deep and hidden meanings. Humorous references to his coat seemed somehow almost equivalent to direct accusations of guilt.

He aged perceptibly during the three weeks of torture through which he passed, becoming furtive, apologetic, palpably more feeble and uncertain in his movements, almost senile. Willie declared that he could hear the hardening of Scraggs' arteries. It was bad enough by day, when he had the momentum of thirty-seven years of habit behind him to bolster him up and shove him along. But at night, to the fear of discovery, was added the excoriation of his conscience. From the moment when at five o'clock he turned and slipped his right arm through the sleeve of his fur coat, to the following morning when he re-hung it upon its hook, he was the prey to a remorse far more bitter than the suffering of his unsatisfied thirst. The consciousness that he had betrayed Mr. Tutt's confidence, had turned upon and stung him like a snake in the grass, made his nights a hell. He had robbed his benefactor. He was as despicable as Judas. He could no longer sleep, no longer eat. The only thing that kept him going was the Teague and Teague.

The end of the month—the shortest in the year—leaped toward him. Three more days, and the bulky envelope containing the evidence of his crime—the monthly bank statement with its accompanying bundle of cancelled vouchers—would be delivered in the morning mail. Suppose Miss Wiggin, or even Mr. Tutt, should happen to get to the office ahead of him, open the envelope, check off the vouchers against the statement, and discover the second check for one hundred and twenty dollars, with the forged indorsement? Jail for *him!* Worse than that the look of sadness in Mr. Tutt's eyes! He could not chance it. He must get that check from the bank and destroy it before it could be returned to his employer.

Unable to trust his shaking fingers to indite a letter to the bank, he picked one out on Miss Sondheim's typewriter, requesting the cashier to "deliver to bearer check No. 300 for one hundred and twenty dollars drawn by me February 4, to the order of Jno. E. Watts." This he signed "Ephraim Tutt, per E. S.," and at the noon-hour delivered it himself, stating that he would return later on for the reply. An hour afterward when he went back to the window, in place of the long envelope containing the check possession of which he sought, he was handed a note addressed to Ephraim Tutt, Esq., stating that in response to the latter's request the bank had searched its files and found that a check for one hundred and twenty dollars to the order of Jno. E. Watts

had in fact been presented for payment through the Chemical National Bank and paid on February 6, but that this check was stamped No. 299 and not No. 300. Should this be the check desired, they would be pleased to return same if so advised, and meantime they respectfully begged to remain, E. and O. E., etc., etc., his obedient servants, World without end, Amen! The Utopia Trust Co., per O. M. Fithian, 2d Cashier.

V

Scraggs' relief on learning that the forged check had not been deposited for collection was but momentary, for it was immediately followed by the ghastly realization that outstanding in the hands of a man like Gill it was infinitely more dangerous. He at once became convinced that the bootlegger would hold it over his head as a club with which to blackmail for the rest of his life, to compel him to commit forgery after forgery until finally he should be abandoned to the harsh mercies of the criminal law. He had fatuously fancied that Gill had been taken in by his silly story about the grocer wanting cash. He now perceived that it could not have fooled anybody, much less the crafty bootlegger. He would be coming around any time now demanding more money—and no mere hundred and twenty dollars either! Gill would try to stick him up for thousands—thousands! Alarm at what the future might hold in store

turned his bowels to water. What an abject idiot he had been to forge Watts' name on the check! He must get the check back from Gill somehow—anyhow! The possibility that Gill might have lost the check occurred to him, but in that event the bootlegger would have come around again asking for another. No, Gill was going to suck his blood—strip the withered skin from his old bones! The end of the month under these circumstances, however, unless the check should be presented for payment in the meantime—which seemed unlikely—no longer held any special terrors for him. It was now simply a question of when Gill would begin his fiendish scheme of blackmail.

The bootlegger made his appearance that very afternoon. He came at half-past four, while all the staff, including both Tutts, were still there, and walked right up to the cage and thrust his hand through the grill. To the half fainting Scraggs his face, seen through the apertures of the wire, seemed like that of a hideous grinning hyena.

"Well," he said, in a circumspect whisper. "How about it? Want any more of the stuff? I can let you have some while it lasts."

Scraggs, bewildered, ran his fingers through the half-dozen spikes of gray hair protruding from his withered dome. Gill did not look as if he harbored any evil purposes—any other, at least, than those implied by his profession.

"How'd you like the last?" he inquired.

"All right," croaked Scraggs, his lips clicking.

The next thing, he felt sure, would be that Gill would order him to slip him a check for five hundred dollars. That, of course, was why he had come so early in the afternoon—in order to terrorize him with fear of instant disclosure before the firm.

"S'pose anybody else here—any or your—er—associates—might like a little?" breathed Gill, almost inaudibly.

A huge relief, almost an ecstasy, pervaded Scraggs. He shook his head with decision.

"No—no! But meet me outside in the hall. I'll join you in two minutes," he said in a guttural tone, and Gill, with a disappointed glance around the office, reluctantly walked out of the door, through which he had entered so shortly before.

"Look here!" queried Scraggs, as they confronted one another in the hall behind the elevator; "why haven't you cashed that check for a hundred and twenty dollars I gave you?"

"I did—next morning," replied Gill. "Do you suppose I can afford to let money sit and wait for me? Not me! I have to keep it moving."

"It hasn't been presented for payment!" persisted Scraggs—as if distrustful of the bootlegger's reply.

"That's funny!" answered Gill. "I deposited it right off, as I told you, in my own bank—the Chemical

National. It must have gone through all right, because my account was credited with it. I drew against it long ago."

"Well, where the devil is it?" demanded the scrivener, now satisfied of the ingenuousness of Gill, but even more apprehensive lest some other person unknown might have secured possession of the damning bit of paper. "Where do you suppose it can be?"

"Hanged if I know!" replied Gill. "Your bank ought to have it. They must have paid it, because my bank got the money. Yes, sir, they must have that check. Unless—" and he paused humorously.

"—Unless what?" cried Scraggs in distress.

"Unless some mouse has et it!" concluded Gill. "Say, if I can't sell you any more to-day, I must be hoppin' along. If you want some, give me a ring!"

Thoroughly mystified Scraggs re-entered his cage. Had Providence intervened to save him? Was it conceivable that the great Utopia Trust Company, which financed half the international loans, and was almost as powerful as the government itself, had lost the check. It wasn't possible! Its system of recording and balancing was automatic and mechanically perfect. The Utopia Trust Company would not err, even if it could not forgive. But where was the check?

"Who was that fellow that came in?" asked Tutt of Bonnie, as the accountant left his cage and limped to the door.

"That is Scraggs' private bootlegger," Mr. Doon informed him. "And," he elevated his nose slightly in the direction of the empty cage, "I should say that he was probably a good one!"

VI

Scraggs' anxieties did not abate by reason of the fact that he no longer feared being blackmailed by Gill. Someone in the bank might have got hold of the check and intend using it for the same purpose, or, almost as bad, it might have been mislaid in some way, in which case, on its eventual discovery, it would be returned to Mr. Tutt in a separate envelope with a note of explanation, thus drawing attention to it in a manner inviting certain detection.

He tossed feverishly on his cot throughout the entire night of February 28, afraid to go to sleep lest he should not wake up early enough to reach the office in time to intercept the bank's monthly statement in the morning mail, and he arose at the first daylight, dressed, put on his fur coat, and, without stopping for breakfast, hurried down-town. It was not yet six o'clock, and the mail did not come until eighty-thirty, at which hour Willie Toothaker was supposed to be on hand, although Scraggs knew, as they all did, that he never was. Nevertheless he was determined to take no chances. There might have been an extra delivery of mail the night

before after they had all gone home, and the statement be among it. He signed the book for the night watchman, ascended in the elevator, walked down the long marble corridor in which his steps echoed as in a lonely chapel, and unlocked the outer door.

How deserted the rooms seemed, and yet, somehow, instinct with life! The steam had not been turned on yet, and it was a trifle cold. He got out a bottle of whiskey and took a stiff drink—neat. It made him feel much better, but he kept his coat on, and foraging for a cigarette in the top drawer of Bonnie Doon's desk, lit it and sat down in the sag bottomed easy-chair in Tutt's office.

He could look straight through the open door to where Mr. Tutt always sat at his rickety old desk. Although he had worked there half his life he had never been down at such an hour. The place seemed alive with spirits, not of the departed, but of those who spent their days there. He could see Miss Wiggin's narrow back as she bent over her books, and Bonnie Doon's long legs as he lounged half beneath the table. A paper crackled and a snicker eddied softly from where Willie lurked at the office rail, and he could hear Miss Sondheim's typewriter clicking—"tut—tut—Tutt & Tutt—tut-a-tut-tut—Tutt & Tutt!" And there was old Scraggs, the scrivener, perched on his high stool in the cage. Funny dried up old man! "Tut-a-tut-tut—Tutt & Tutt!" went Miss Sondheim's machine. He moved

uneasily and glanced through the door at Mr. Tutt. The old man was gazing reproachfully at him, elbows on the desk in front of him, his chin on his hands. How sad he looked! As if he bore upon his high-rounded shoulders most of the sorrows of mankind. Scraggs turned away his eyes. He could not look at Mr. Tutt. They were blurred with tears anyway. What an ungrateful wretch he had been! Thirty-seven years together! Mr. Tutt had rescued him from the gutter, held out the hand of affection and encouragement, put his own coat upon his back! And how had he repaid him? With a sob Scraggs dropped his head upon the moth-eaten collar of his fur coat. Once he raised his eyes furtively. Mr. Tutt was holding out his arms to him in mute appeal.

Click! The postman was shoving the mail through the letter slide, and it was dropping, plopping, and flopping in a pile upon the floor. Scraggs awoke abruptly. He looked about startled. Where was everybody! Click! The cover of the slide closed, and the steps of the postman crossed the corridor. He recalled where he was and why. Taking off his coat, he hung it on the peg inside the cage, and pawed over the mail. The monthly statement was there! He opened it hurriedly and examined the cancelled vouchers. The check drawn to Jno. E. Watts and dated February 4 was not among them! Luck was with him!

With a deep sigh of relief he replaced the vouchers and statement in the envelope, laid it with the rest of the mail for Mr. Tutt upon the latter's desk, and descended to the basement for a bite of breakfast at the cafeteria.

The girl behind the counter chaffed him good-naturedly about having been up "stravagling" all night, and the hot coffee and frankfurter started the sap flowing through his withered limbs. His spirits rose with the steam from the canteen. He began to feel that he had been unduly fearful of discovery. The check was lost—had slipped down a crack probably, or into a waste-paper basket, and was gone forever. Otherwise it would have come back long ago to plague him. No, he could breathe freely! The chances were now all in his favor. After all, what was a hundred and twenty dollars to Mr. Tutt? A mere nothing! Besides, he, Scraggs, had earned that amount over his salary a thousand times. His mercury began to rise. For the first time since he had parted with the check he felt reasonably at ease. He bought one of his favorite five-cent cigars—a "J. B."—paid for his breakfast, and returned to the office. It was empty—only ten minutes to nine. That young rapscallion of a Willie might not come along for another half-hour. Scraggs found himself humming an old song:

"Each rosy morn with hounds and horn
Young bucks a-hunting go!

Young bucks a-hunting go-o-o!
Young bucks a-hunting go-o-o!
For all my fancy dwells with Nancy.
Hark! Sweet tally-ho!"

A good old song! His cracked voice quavered through the rooms.

It was still cold up there and he put on his coat again.

"Let bucks a-hunting go!"

He remembered now why the song held a special sentiment for him. He had known a girl named Nancy—Nance O'Dell—up in Kingston back when he was a lad.

"For all my fancy dwells with Nancy!"

She had died, poor thing, drowned in the Rondout Creek! His rheumy eyes filled. He had not thought of her for years. He felt now that he had known Nance O'Dell very well, although in point of fact this was not so. She had drowned herself in the creek for love of another. But Scraggs had forgotten that. Fifty years ago that was! His handkerchief was still crummy from the frankfurter, but he wiped his eyes with it and went back into the cage. That was the way of it! You died and were forgotten—just as he had forgotten his sweet little love—Nancy. There would be nobody to remember him after he was gone. There would be the customary "office funeral"—a wreath, "We mourn our loss!"—and then some other moth-eaten old squirrel would be stuck into the cage to go whirring round. "Moth-eaten old squirrel!" That was just what he was!

He had forfeited the dearest blessing life had to offer —a home of his own hallowed by the love of a wife and children. If only he had had a child! He laughed. Why, it would be old enough to have children of its own by that time. He might have had grandchildren! Who would gather prattling about him in the evening before the fire and listen with eyes of wonder, while he told them stories of his boyhood instead of sitting alone in his chilly little room studying the evening paper until it was time to go to bed. Nobody's fault but his own! He had thrown away every chance of happiness—for what? Rum! Those mocking pleasures of the bottle, that had robbed him of his self-control, his powers of mind and body, until now he was—just what he was!—a moth-eaten old squirrel, spinning in its cage until it died. And once again he squirmed at the thought of how he had treated Mr. Tutt. Rum had done that, too! Another black mark to be added to the hateful score. Well, it was too late to do anything about it now. He must stick it out. A loathsome business, it was! Disgusting and despicable! A forger! He knew the penalty—twenty years. He daren't take a chance on admitting it. Even if Mr. Tutt might be moved to pity, there was always the other fellow whose name he had violated—Watts. And the bank! All the banks belonged to some association or other that obligated them to prosecute forgers to the bitter end. He looked down at the sleeves of his coat—Mr. Tutt's coat—given

him just because he had been cold. A fine way to pay him back! With a groan he went back into his cage and clanged-to the door behind him; then climbed to his seat on the high stool and huddled there shivering, with the skirts of his patched old surtout dangling about his thin legs.

There was a slight noise at the door. A short, thick-set woman in dingy black, holding a baby, was standing just inside the threshold. She gave the appearance of having on a large wardrobe of petticoats. A scrub-woman probably! They were apt to come to Mr. Tutt if they got into difficulties. This one was swarthy, her young-old face marked, as most of them were, by anxiety and undernourishment, but with something rather fine about it—of patience, courage, cheerfulness. A good woman, anybody could see that—even if she was a foreigner and a peasant. The baby—one of the fat, gurgling variety—wriggled and poked her cheek with its fist.

"Eesa—eesa theese Meester Tutt?" she asked with a faint smile, as she dodged the fingers that clutched at her lips. Scraggs shook his head.

The woman looked disappointed, but the baby, intrigued at the sight of an old gentleman in a cage, began to coo and hold out its chubby arms. Scraggs was greatly flattered. He had always liked babies, and there was something particularly jolly and enticing about this one. He yearned to lift it out of its mother's arms, crunch

it up against the collar of his surtout, and stick his old nose in its soft little neck.

"Da-da!" it said, nodding violently.

Scraggs beamed. It was an age since he had made a hit with anybody, even a baby. For the moment he forgot all his misery.

"Goo-ee!" he replied, following up the communication with a series of those clucking sounds supposed to give gratification to the young. The infant squawked with delight, waving its arms, and the mother grinned appreciatively. Even if he were not the great Mr. Tutt, this was a nice man!

"Ho-ho! Good baby!" chirped Scraggs, descending from his stool and coming out of the cage. Then abandoning all reserve he suddenly began to sing——

"How sweet is the horn that sounds in the morn.
Young bucks a-hunting go!
Young bucks a-hunting go-o-o!
Young bucks a-hunting go-o-o!
For all my fancy dwells with Nancy.
Whilst I sing tally-ho-o-o!"

"Well, well!" he ejaculated, out of breath. "Who'd 'a' thought I'd be singin' to a baby at this hour of the morning!"

He coughed in a deprecating manner.

"Won't you sit down and wait?"

The woman shook her head in turn.

"I come again. Or I loosa the job!"

"Is there anything I can do?" inquired Scraggs politely.

The woman shrugged her shoulders. Then, shifting the baby and taking from her bosom a piece of paper, she held it out to him.

Scraggs' knees turned wabbly. It was No. 300—the check for one hundred and twenty dollars bearing the forged indorsement. His Adam's apple seemed to swell to enormous proportions and fill his entire throat.

"Thees notta my name!" she said. "But the bank maka me pay!"

Scraggs subsided upon Willie Toothaker's desk. The worst had happened. The bank had made some crazy sort of a mistake. Everything would come out! He was ruined!

He waved his hand feebly toward the chair usually occupied by Miss Wiggin.

"Sit down!" he faltered, feeling a thousand years old.

The woman put the baby on the desk beside her and pulled out the chair. Scraggs looked at the clock. It was only a few minutes past nine. She followed his eyes.

"I stay twenta min!" she said.

But in spite of her ignorance of English she managed, in some extraordinary way, to communicate to him the nature of her trouble in less time. It may have been that the tension under which he was laboring had

keyed up the old man's power of interpretation, or that the woman herself possessed an extraordinary faculty of transmitting her ideas by gesture and expression.

Probably it was a little of both, with the added element that Scraggs must intuitively have suspected what had occurred. The gist of it was simple enough. Her name was Tull. An Italian girl wedded to an English Cockney. Her husband, a window-washer, had died the year before, leaving a hundred and fifty dollars in the Utopia Trust Company. She had wisely resolved to leave it there and never to touch it. She had found a job as a cleaner at thirteen dollars a week and had got along well enough until she had caught the flu. The doctor's bill had been thirty-five dollars. She had gone to the bank, filled out a check for that amount, and —been informed that the account contained a balance of only thirty dollars! Not enough to meet her check for the doctor. They had given her a statement and a cancelled voucher which had been charged against her account for one hundred and twenty dollars. This was it, in her hand. It was not hers. She had lost a hundred and twenty dollars! The cashier had given her a list of depositors with somewhat similar names. Mr. Tutt's had been the first.

Again she extended the check to Scraggs for his examination. He had no need to look at it. He already realized precisely what must have occurred. Gill had deposited the check at his own bank, the Utopia's cashier

had honored it on its receipt from the Clearing House on the strength of the Chemical National's indorsement, barely glancing at the face of it, if, in fact, even doing that, and then, when he had sought later in the day to charge it to the right account, had been unable to read the signature. He had probably therefore looked through the "T" cards to find the nearest thing to it, and having reached Mrs. Tull's signature had assumed that it was the same as that on the check. Once he had charged the check to her account his pride had naturally demanded that he should make at least a show of requiring further proof before acknowledging his mistake. The name on the check might have been almost anybody's—Tull, Tall, Tell, Teel, or any one of a hundred others. He, Scraggs, could recognize it easily enough as Mr. Tutt's signature, but nobody else, including Mr. Tutt himself, could be blamed for not doing so, particularly as there was no identifying name engraved or printed upon the check.

The baby, doubtless desiring a vocal encore, had started crawling toward him across Miss Wiggin's desk.

"Da-da!" it remarked with a gluey chuckle.

Mrs. Tull pulled it back by the legs, gurgling on its stomach.

"You keepa the check! You tella him. You tella Meester Tutt!" she said placidly. "I come back tomorrow!"

Smiling, she got up and hoisted the baby upon her shoulder.

A strange and fearful exhilaration seized Scraggs. He moistened his cracked lips and looked at the clock again. In his shaking hand was the only existing evidence of his crime. He could retain it, and by destroying it after her departure, be safe forever! He mitigated the baseness of this treachery by telling himself that he could make the amount good to her in instalments—later on. It would be easy! The blood rushed to his eyes and sang in his ears. Every instinct of self-preservation was urging him to this one last act, which, compared with what he had already done, seemed insignificant. Yet—! He hesitated. Could he rob this poor woman of her savings? Deprive her of all that might at any moment stand between her and actual starvation? A month ago such an idea would have filled him with abhorrence. When he had yielded to the temptation to buy the Teague and Teague he had never contemplated the possibility of his act having any such far-reaching effect as this. The roof of his mouth seemed coated with sand. His solar plexus palpitated like a fluttering bird beneath his waistcoat. A fiery spot burned in either cheek. His hands were as ice. The desk on which he sat was acting like a raft. He clung to it like a half-drowning man, unable longer to survive.

The battle going on within him transcended any of his previous struggles against even that all-devouring

thirst. This was something deeper, more fundamental, involving his moral life or death. He had an almost irresistible impulse to rush into the other room and burn or destroy the check. It seemed as though some malignant power were standing at his elbow urging him on.

Shuddering, he drew his old coat closer about his shoulders. And as he did so, he felt a sudden strength steal through his body, as if the shabby, patched old garment were warming and invigorating his soul. He perceived that he simply couldn't do this despicable thing. He might be a bad egg, an old rummy, no better than a crook, but he had left some self-respect worth preserving. How could he have thought for a moment of anything so contemptible! He'd rather go to jail for a thousand years! Yes, he would—a thousand years! To jail——

The woman had nearly reached the door. The baby was peeking over her shoulder at him. A wave of tremulous emotion passed through Scraggs. He had felt something like it before, though not exactly like it, when he had been rather drunk. He wanted to cry, yet he was curiously happy—happy enough to sing!

The woman opened the door and smiled back at him, slightly elevating the baby, who evidently regarded its withdrawal from the society of so entrancing a person as unwarrantable. Scraggs contorted his withered features into a sardonic grin, but in his eyes was an expression almost like that of Mr. Tutt.

"Good-by, baby!" he said, waving the check after it; "be a good baby!"

He sat there motionless for several minutes after the door had closed behind them. Then he rubbed his right sleeve across his eyes, got to his feet and, walking stiffly into Mr. Tutt's room, laid the check on the top of the desk. A moment later his voice quavered resolutely through the offices.

"Each rosy morn with hounds and horn
Young bucks a-hunting go!
Young bucks a-hunting go-o-o!
Young bucks a-hunting go-o-o!"

Willie Toothaker, slipping surreptitiously in at half past nine, watched in amazement from the outer hallway as he saw Scraggs place a ladder against Mr. Tutt's southerly bookcase and cautiously ascend far enough to reach the topmost shelf, where reposed the most ancient and least used volumes. Taking from his pocket a slip of paper, which he thereupon consulted, he peered along the row of dusty tomes until his eyes had found the one he sought.

"'Thirteen Mason and Welsby, New Series,'" he muttered, and removing the volume, disclosed in the hollow immediately behind it an unopened quart of Teague and Teague. Clasping the precious bottle to his bosom, Scraggs felt his way to the floor in safety, and holding the label to the light appeared to read something written upon it.

" 'Three Howard's State Trials,' " he repeated.

Then, having placed the bottle on Mr. Tutt's desk, the old fellow leaned the ladder against another section of the bookcase, climbed up and retrieved a second bottle, the label of which he examined in like manner.

" 'Two Crown Cases Reserved,' " murmured the scrivener, with evident satisfaction.

And now having similarly exhumed a third bottle from the custody of the criminal courts, Scraggs passed from law to equity, which yielded a fourth, and sought finally the jurisdiction of the Admiralty and Divorce Division, from which he recaptured still two more.

He was engaged in marshalling them upon Mr. Tutt's blotter when the old lawyer entered.

"What on earth—!" he began.

Scraggs covered his face with his hands.

It was then that to Willie's deep disappointment Mr. Tutt quickly turned and closed his office door. When it was opened half an hour later a different and much younger Scraggs emerged.

"What's that tune you've been humming all day?" asked Willie as he paused outside the scrivener's cage on his way to lunch.

"That?—Oh, just an old song I used to sing when I was a boy!" answered Scraggs.